

**OREGON ADMINISTRATIVE RULES**  
**WATER RESOURCES DEPARTMENT**  
**CHAPTER 690**  
**DIVISION 380**  
**WATER RIGHT TRANSFERS**

**Table of Contents**

7	<a href="#">Table of Contents</a> .....	1
8	<a href="#">General Provisions</a> .....	3
9	<a href="#">690-380-0010 Purpose</a> .....	3
10	<a href="#">690-380-0090 Applicability</a> .....	4
11	<a href="#">690-380-0100 Definitions</a> .....	5
12	<a href="#">Permanent Transfers</a> .....	6
13	<a href="#">690-380-2000 Types of Permanent Transfers</a> .....	6
14	<a href="#">690-380-2110 Change in Point of Diversion or Point of Appropriation</a> .....	7
15	<a href="#">690-380-2120 Change in Point of Diversion to Reflect Historical Use</a> .....	7
16	<a href="#">690-380-2130 Change from a Surface Water Point of Diversion to a Groundwater</a>	
17	<a href="#">Appropriation</a> .....	9
18	<a href="#">690-380-2200 Changes in Place of Use</a> .....	12
19	<a href="#">690-380-2250 Transfer of Supplemental Water Right or Permit</a> .....	12
20	<a href="#">690-380-2260 Exchanges of Water</a> .....	13
21	<a href="#">690-380-2300 Changes in Character of Use</a> .....	14
22	<a href="#">690-380-2320 Transfer from Supplemental Use to Primary Use</a> .....	14
23	<a href="#">690-380-2330 Substitution of Supplemental Ground Water Right for Primary Surface</a>	
24	<a href="#">Water Right</a> .....	14
25	<a href="#">690-380-2340 Specific-to-General Industrial Water Use Change</a> .....	15
26	<a href="#">690-380-2410 Municipal Water Rights</a> .....	16
27	<a href="#">690-380-2420 Notice of Merger, Consolidation or Formation of a Water Authority</a> ..	16
28	<a href="#">690-380-2430 Acquisition of Water Rights by a Water Authority</a> .....	17
29	<a href="#">Transfer Applications</a> .....	18
30	<a href="#">690-380-3000 Application for Transfer</a> .....	18
31	<a href="#">690-380-3050 Additional Application Requirements</a> .....	21
32	<a href="#">690-380-3100 Map Requirements</a> .....	21

1	<a href="#">690-380-3200 District May Submit Application for Water Users</a>	23
2	<a href="#">690-380-3220 Separate Application Required for Each Water Right</a>	24
3	<a href="#">690-380-3400 Waiver of Fees</a>	24
4	<a href="#">690-380-3410 Waiver of Mapping Requirements</a>	25
5	<a href="#">Application Notice and Review</a>	26
6	<a href="#">690-380-4000 Request for Comments</a>	26
7	<a href="#">690-380-4010 Preliminary Determination</a>	26
8	<a href="#">690-380-4020 Notice of Preliminary Determination</a>	27
9	<a href="#">690-380-4030 Protests and Requests for Hearings</a>	28
10	<a href="#">690-380-4200 Hearings</a>	29
11	<a href="#">Final Orders</a>	30
12	<a href="#">690-380-5000 Approval of Transfers</a>	30
13	<a href="#">690-380-5030 Approval of Injurious Transfers</a>	30
14	<a href="#">690-380-5040 Affidavits of Consent</a>	31
15	<a href="#">690-380-5050 Consent to Injury of Instream Water Rights</a>	31
16	<a href="#">690-380-5060 Fish Screening and By-Pass Devices</a>	32
17	<a href="#">690-380-5100 Compatibility with Acknowledged Comprehensive Plans</a>	33
18	<a href="#">Miscellaneous Provisions</a>	34
19	<a href="#">690-380-5110 Original Right Terminated</a>	34
20	<a href="#">690-380-5120 Multiple Primary Water Rights on the Same Lands</a>	34
21	<a href="#">690-380-5130 Assignment or Change of Ownership</a>	34
22	<a href="#">690-380-5140 Time for Completion</a>	35
23	<a href="#">Perfection of Transferred Rights</a>	36
24	<a href="#">690-380-6010 Failure to Complete a Transfer as Grounds for Cancellation</a>	36
25	<a href="#">690-380-6020 Extension of Time</a>	36
26	<a href="#">690-380-6030 Proof Of Use; Noncompliance</a>	37
27	<a href="#">690-380-6040 Proof of Completion of Change</a>	38
28	<a href="#">690-380-6050 Waiver of Proof of Completion</a>	38
29	<a href="#">690-380-6060 Petition for Reconsideration</a>	39
30	<a href="#">Temporary Transfers</a>	40
31	<a href="#">690-380-8000 Temporary Transfers</a>	40
32	<a href="#">690-380-8002 Temporary Transfer Applications under OAR 690-380-8000(1)</a>	41
33	<a href="#">690-380-8004 Temporary Transfer Applications under OAR 690-380-8000(2)</a>	42
34	<a href="#">690-380-8010 Seasonal Use</a>	43
35	<a href="#">690-380-8020 Supplemental Water Rights</a>	44
36	<a href="#">690-380-9000 Clarification of Water Rights</a>	45

1  
2                                   **OREGON ADMINISTRATIVE RULES**  
3                                   **WATER RESOURCES DEPARTMENT**

4                                   **CHAPTER 690**  
5                                   **DIVISION 380**

6                                   **WATER RIGHT TRANSFERS**

7                                   **General Provisions**

8   **690-380-0010**

9   **Purpose**

10           (1) The rules in OAR Chapter 690, Division 380 establish requirements and procedures  
11 that shall be used by the Department to evaluate an application to change a water use subject to  
12 transfer. The rules describe the requirements for permanently changing the use, place of use,  
13 point of diversion or point of appropriation of a water use subject to transfer and for temporarily  
14 changing the character of use of stored water and the place of use of a water use subject to  
15 transfer.

16           (2) A water user may make the following changes without filing a transfer application  
17 pursuant to ORS 540.520 and OAR 690-380-3000:

18           (a) The allocation of conserved water, however, an application for allocation of  
19 conserved water is required pursuant to ORS 537.455 to 537.500 and OAR Chapter 690,  
20 Division 18 and notice of a change in place of use of conserved water is required pursuant to  
21 537.490;

22           (b) Use water at an additional or different place of use under a water use subject to  
23 transfer issued to a municipality, rights conferred by ORS 538.410 to 538.450, or under the  
24 registration system set forth in ORS 537.132 provided the water use complies with the  
25 requirements under ORS 540.510(3)(a)(A) to (C) and 540.510(3)(b);

26           (c) Use water at a different place of use under a permit or certificate issued to a district  
27 pursuant to ORS 540.570 to 540.580 and OAR Chapter 690, Division 21, however, a petition for  
28 the change must be submitted to the Department by the district;

29           (d) A change in point of diversion pursuant to ORS 540.510(5) and the diversion is  
30 provided with a proper fish screen, if requested by ODFW;

31           (e) A point of diversion change caused by government action pursuant to ORS  
32 540.510(6) provided that the owner notifies the Department before changing the point of  
33 diversion;

34           (f) A point of appropriation or diversion change or a place of use change under a water  
35 use permit through a permit amendment for which an application has been filed and approved by  
36 the Department pursuant to ORS 537.211(4) to (9);

37           (g) Water right changes made for lands not described in a permit when the Department  
38 issues a certificate pursuant to ORS 537.252;

1 (h) An exchange of water that meets the criteria in ORS 540.533 and 540.537 if the  
2 exchange is approved pursuant to OAR 690-380-2260;

3 (i) A change in character of use from a specific industrial use to general industrial use  
4 provided notice is provided to the Department of the change and the change is consistent with the  
5 criteria in OAR 690-380-2340; and

6 (j) Any change of use if the beneficial use authorized by the water use subject to transfer  
7 is irrigation and the owner of the water right uses the water for incidental agricultural, stock  
8 watering and other uses related to irrigation use, so long as there is no increase in the rate, duty,  
9 total acreage benefited or season of use.

10  
11 Stat. Auth.: ORS 536.025 & ORS 536.027

12 Stats. Implemented: ORS 540.510 - ORS 540.532

13 Hist.: WRD 16-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert. ef. 7-11-96;

14 Renumbered from 690-015-0001 by WRD 4-2003, f & cert. ef. 5/1/2003

15  
16 **690-380-0090**

17 **Applicability**

18 The rules in OAR Chapter 690, Division 380 shall apply to all applications received by  
19 the Department after July 1, 2003 and all transfers for which a final order has not been issued by  
20 the Department by July 1, 2003 except as follows:

21 (1) Until July 1, 2003, the Department shall accept applications that conform to the  
22 requirements of either OAR 690-380-3000 or OAR 690-015-0060 as adopted by the Commission  
23 in June 1996.

24 (2) Notice of receipt of an application pursuant to OAR 690-380-4000(3) shall not be  
25 required if notice of the application has previously been published in the Department's weekly  
26 notice pursuant to OAR 690-015-0080(1) as adopted by the Commission in June 1996.

27 (3) Until July 1, 2003 or if protests are filed during the period described in OAR 690-  
28 015-0080 as adopted by the Commission in June 1996, at the discretion of the Director, the  
29 Department may:

30 (a) Prepare a preliminary determination and initiate the procedures described under OAR  
31 690-380-4010 to 690-380-4200; or

32 (b) Issue a final order pursuant to OAR Chapter 690, Division 015 as adopted by the  
33 Commission in June 1996.

34 (4) If affidavits are filed pursuant to OAR 690-017-0400, at the discretion of the Director,  
35 the Department may:

36 (a) Prepare a preliminary determination and initiate the procedures described under OAR  
37 690-380-4010 to 690-380-4200; or

38 (b) Initiate cancellation proceedings under OAR Chapter 690, Division 017.

1 (5) The Department shall provide notice of any preliminary determination by publication  
2 in the Department’s weekly notice, but shall not require newspaper notice pursuant to OAR 690-  
3 380-4020(1)(b) if newspaper notice has previously been published pursuant to OAR 690-015-  
4 0080(1) as adopted by the Commission in June 1996.

5  
6 Stat. Auth.: ORS 536.025 & ORS 536.027  
7 Stats. Implemented: ORS 540.510 - ORS 540.532  
8 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003  
9

10 **690-380-0100**

11 **Definitions**

12 The definitions in this rule, along with the definitions in OAR 690-008-0001 and 690-  
13 300-0010, apply to the rules in OAR Chapter 690, Division 380. Where a term is defined in more  
14 than one rule, the definition in this rule applies.

15 (1) “District” means an irrigation district formed under ORS chapter 545, a drainage  
16 district formed under ORS chapter 547, a water improvement district formed under ORS chapter  
17 552, a water control district formed under ORS chapter 553 or a corporation organized under  
18 ORS chapter 554.

19 (2) “Enlargement” means an expansion of a water right and includes, but is not limited to:

20 (a) Using a greater rate or duty of water per acre than currently allowed under a right;

21 (b) Increasing the acreage irrigated under a right;

22 (c) Failing to keep the original place of use from receiving water from the same source;

23 or

24 (d) Diverting more water at the new point of diversion or appropriation than is legally  
25 available to that right at the original point of diversion or appropriation.

26 (3) “Injury” or “Injury to an existing water right” means a proposed transfer would result  
27 in another, existing water right not receiving previously available water to which it is legally  
28 entitled.

29 (4) “ODFW” means the Oregon Department of Fish and Wildlife.

30 (5) “Point of appropriation” means a well or the pump location on a sump at which  
31 ground water is withdrawn from the ground for use under a ground water right.

32 (6) “Point of diversion” means the place at which surface water is diverted from a surface  
33 water source as specified in the water right. It may be the head of a ditch, a pump suction line,  
34 the center line of a dam, or other point at which control is taken of surface water.

35 (7) “Primary water right” means the water right designated by the Commission as the  
36 principal water supply for the authorized use, or if no designation has been made, the water right  
37 designated by the applicant as the principal water supply for the authorized use.

1 (8) “Protest” means a written statement expressing opposition to approval of a transfer  
2 application and disagreement with a preliminary determination that is filed in response to the  
3 notice prescribed by ORS 540.520(5) and OAR 690-380-4020 and includes the fee prescribed in  
4 ORS 536.050.

5 (9) “Standing statement” means a written statement expressing support for a preliminary  
6 determination that is filed in response to the notice prescribed by ORS 540.520(5) and OAR 690-  
7 380-4020.

8 (10) “Supplemental water right or permit” means an additional appropriation of water to  
9 make up a deficiency in supply from an existing water right. A supplemental water right or  
10 permit is used in conjunction with a primary water right.

11 (11) “Water use subject to transfer” means a water use established by:

12 (a) An adjudication under ORS chapter 539 as evidenced by court decree;

13 (b) A water right certificate;

14 (c) A water use permit for which a request for issuance of a water right certificate under  
15 ORS 537.250 has been received and approved by the Commission under ORS 537.250; or

16 (d) A transfer application for which an order approving the change has been issued under  
17 ORS 540.530 and for which proper proof of completion of the change has been filed with the  
18 Commission.

19  
20 Stat. Auth.: ORS 536.025 & ORS 536.027

21 Stats. Implemented: ORS 540.510 - ORS 540.532

22 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 10-1988, f. & cert. ef. 8-10-88; WRD 5-  
23 1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0005 by WRD 4-2003, f & cert.  
24 ef. 5/1/2003

## 25 **Permanent Transfers**

### 26 **690-380-2000**

#### 27 **Types of Permanent Transfers**

28 Permanent water right transfers include:

29 (1) A change in the point of diversion or appropriation pursuant to OAR 690-380-2110,  
30 690-380-2120 and 690-380-2130;

31 (2) A change in the place of use pursuant to OAR 690-380-2200, 690-380-2250, and 690-  
32 380-2260;

33 (3) A change in the character of use pursuant to OAR 690-380-2300; 690-380-2320, 690-  
34 380-2330, and 690-380-2340; and

35 (4) A change involving municipal water rights pursuant to OAR 690-380-2410, 690-380-  
36 2420, and 690-380-2430.

1 Stat. Auth.: ORS 536.025 & ORS 536.027  
2 Stats. Implemented: ORS 540.510 - ORS 540.532  
3 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003  
4

5 **690-380-2110**  
6 **Change in Point of Diversion or Point of Appropriation**

7 (1) Except as provided in ORS 540.531 and OAR 690-380-2130, a change in point of  
8 diversion is restricted to the same source of surface water. A change in point of appropriation is  
9 restricted to the same aquifer.

10 (2) As provided in ORS 450.695(2), a water authority may change the points of  
11 diversion or move the water intake sources of the water use permits or certificates conveyed to it  
12 by the districts and municipalities that formed the water authority. For the purposes of this  
13 subsection, moving a water intake source is the same as changing the location of a point of  
14 diversion. Water authorities shall be subject to the following requirements:

15 (a) A request by a water authority to change the location of a point of diversion from that  
16 authorized by a water right certificate shall be made pursuant to ORS chapter 540 and OAR  
17 Chapter 690, Division 380 transfer rules;

18 (b) A request by a water authority to change the location of a point of diversion  
19 authorized by a water use permit, as defined in OAR 690-380-0100(11)(c), shall be subject to the  
20 same statutory and administrative review criteria prescribed by ORS chapter 540 and OAR  
21 Chapter 690, Division 380 transfer rules for water uses subject to transfer; and

22 (c) A request by a water authority for changes in the point of diversion for water right  
23 permits other than those covered under subsection (2)(b) of this rule, shall be made pursuant to  
24 ORS 537.211.

25  
26 Stat. Auth.: ORS 536.025 & ORS 536.027  
27 Stats. Implemented: ORS 450.695 & ORS 540.510 - ORS 540.532  
28 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 16-1990, f. & cert. ef. 8-23-90, Renumbered  
29 from 690-015-0015; WRD 19-1990, f. & cert. ef. 12-14-90; WRD 5-1996, f. & cert. ef.  
30 7-11-96; Renumbered from 690-015-0010 by WRD 4-2003, f & cert. ef. 5/1/2003  
31

32 **690-380-2120**  
33 **Change in Point of Diversion to Reflect Historical Use**

34 (1) As provided in ORS 540.532, any individual who holds a water right certificate or  
35 decree may request a change in point of diversion to reflect the historical use of water at a point  
36 of diversion other than that described in the water right certificate or decree. The individual shall  
37 use the Department's water right transfer application form, clearly marked "Historic Change in  
38 POD," and, except as otherwise provided in section (2) of this rule, include the information  
39 required in OAR 690-380-3000.

1 (2) An individual requesting a change in the point of diversion under section (1) of this  
2 rule shall provide to the Department the following information:

3 (a) Evidence that the actual, current point of diversion for the water right in question has  
4 been in use for more than 10 years;

5 (b) A map meeting the requirements of OAR 690-380-3100, except that it need not be  
6 prepared by a certified water rights examiner. The map shall be of sufficient detail and clarity to  
7 identify the true point of diversion including but not limited to:

8 (A) The county tax lot number, township, range and section, and to the nearest quarter-  
9 quarter section or latitude and longitude as established by a global positioning system; and

10 (B) The locations of the point of diversion as specified in the water right certificate or  
11 decree and the actual, current point of diversion;

12 (c) Evidence that there has been no claim of injury prior to the request for the change in  
13 point of diversion. The evidence shall include a statement from the local watermaster, based  
14 upon the watermaster's knowledge and Department records, that no complaint of injury has been  
15 made due to the use of water at the actual, current point of diversion.

16 (3) On receipt of an application for a change in point of diversion under section (1) of this  
17 rule, the Department shall:

18 (a) Provide the applicant a list of the affected water rights. The list shall include, but is  
19 not limited to:

20 (A) Any water right with an intervening point of diversion;

21 (B) Any water right for use of stored water being delivered from an upstream reservoir to  
22 a downstream user;

23 (C) Any water right upstream from a significant inflow of water if the request moves the  
24 proposed point of diversion upstream, above the inflow, from the authorized point of diversion;

25 (D) Any water right downstream from a significant inflow of water if the request moves  
26 the proposed point of diversion downstream, below the inflow, from the authorized point of  
27 diversion;

28 (b) Provide the applicant a copy of a notice to be mailed or hand-delivered to the affected  
29 water right holders that:

30 (A) Describes the locations of the authorized and actual points of diversion;

31 (B) States that the recipient on the notice may provide comments to the Department on  
32 whether the requested change in point of diversion will cause injury; and

33 (C) Establishes a comment period of at least 30 days after the notice is mailed or hand-  
34 delivered to each of the affected water right holders;

35 (c) Consult with ODFW in the manner provided under OAR 690-380-5060; and

36 (d) Provide notice of the application in the weekly notice published by the Department.

37 (4) Upon receipt from the Department of the list of affected water rights and a copy of the  
38 notice, the individual shall determine the name and address of the current holder of each affected  
39 water right identified by the Department and shall mail or hand deliver the notice to all such



1 holders. The individual shall provide to the Department written proof of service upon the water  
2 right holders. A transfer under section (1) of this rule shall not be approved by the Department  
3 before the Department receives the written proof of service and before the comment date  
4 specified in the notice, whichever is later.

5 (5) If, after considering any comments received, the Department finds the individual  
6 requesting a change in point of diversion to reflect historical use satisfies the requirements under  
7 section (2) to (4) of this rule and that the change does not cause injury, the request shall be  
8 approved. The order approving the change in point of diversion shall establish a deadline for  
9 compliance with any conditions needed to prevent injury and, where required, to provide fish  
10 screening. If a certificate had previously been issued, the order shall cancel the certificate. The  
11 director shall issue a new certificate confirming the change in point of diversion and preserving  
12 all other conditions of the water right.

13 (6) After the deadline for compliance with conditions of an approval established pursuant  
14 to section (5) of this rule, the use of water from the point of diversion shall be subject to  
15 continued compliance with the conditions.

16 (7) As used in this rule, “individual” means a natural person and does not include a  
17 government body, organization, business enterprise, or other such entity.

18  
19 Stat. Auth.: ORS 536.025 & ORS 536.027

20 Stats. Implemented: ORS 540.532

21 Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0240 by WRD 4-  
22 2003, f & cert. ef. 5/1/2003

23  
24 **690-380-2130**

25 **Change from a Surface Water Point of Diversion to a Groundwater Appropriation**

26 (1) As provided in ORS 540.531, an owner of a surface water use subject to transfer may  
27 apply for a transfer of the point of diversion to allow the appropriation of ground water, subject  
28 to the requirements for a transfer in point of diversion under this Division and the requirements  
29 under section (2) **or (3)** of this rule.

30 (2) The Department may allow the transfer of the point of diversion under section (1) of  
31 this rule if [~~a transfer application demonstrates~~]:

32 **(a) The criteria in OAR 690-380-5000 are met;**

33 [~~(a)~~] **(b)** The new point of diversion appropriates ground water from an unconfined  
34 aquifer that is hydraulically connected to the authorized surface source; **and**

35 [~~(b) The proposed change in point of diversion will not result in injury or;~~]

36 (c) The proposed change in point of diversion will affect the surface water source  
37 similarly to the authorized point of diversion specified in the water use subject to transfer; and

38 (d) The withdrawal of groundwater at the new point of diversion is located within 500  
39 feet of the surface water source and, when the surface water source is a stream, is also located

1 within 1000 feet upstream or downstream of the original point of diversion as specified in the  
2 water use subject to transfer; or

3 (e) If the distance requirements in subsection (2)(d) of this rule are not met, the holder of  
4 a water use subject to transfer shall submit to the Department evidence prepared by a licensed  
5 geologist that demonstrates that the use of the groundwater at the new point of diversion will  
6 meet the criteria set forth in subsections (2)(a) to (c) of this rule.

7 **(3) Notwithstanding section (2) of this rule, the Department shall allow a transfer of**  
8 **the point of diversion under section (1) of this rule in the Deschutes basin ground water**  
9 **study area if:**

10 **(a) The proposed transfer would not result in injury to an existing water right or**  
11 **enlargement of the water right proposed for transfer;**

12 **(b) The criteria in OAR 690-380-5000 are met;**

13 **(c) The new point of diversion appropriates ground water from an aquifer that is**  
14 **hydraulically connected to the authorized surface water source; and**

15 **(d) The use of the new point of diversion will affect the surface water source**  
16 **hydraulically connected to the authorized point of diversion specified in the water use**  
17 **subject to transfer. The Department may not require that the use of the new point of**  
18 **diversion affect the surface water source similarly to the authorized point of diversion**  
19 **specified in the water use subject to transfer under this subsection.**

20 [~~3~~] **(4)** A transfer application requesting to change the point of diversion from a surface  
21 water diversion to a groundwater appropriation for which evidence prepared by a licensed  
22 geologist is required under subsection (2)(e) of this rule shall be evaluated by the Department in  
23 the following manner:

24 (a) The change in point of diversion request shall be examined to determine the potential  
25 for injury as if the change is to be from the authorized point of diversion to a point on the stream  
26 nearest the proposed well;

27 (b) If potential injury is not found, the evidence prepared by a licensed geologist and  
28 submitted by the applicant shall be evaluated to determine whether the application meets the  
29 other requirements of subsection (2)(a) to (c) of this rule. The geologist's report shall examine  
30 the effect on the surface water source in the vicinity of the point on the stream nearest the  
31 proposed new point of diversion.

32 [~~4~~] **(5)** The new point of diversion shall retain the original date of priority and all other  
33 applicable conditions and restrictions that existed at the original point of diversion shall apply at  
34 the new point of diversion authorized under the transfer.

35 [~~5~~] **(6)** If within five years after approving a transfer under this rule, the Department  
36 finds that the transfer results in substantial or undue interference with an existing ground water  
37 right that would not have occurred in the absence of the transfer, the new point of diversion shall  
38 be subordinate to the existing right injured by the transfer. This section applies only to wells with  
39 rights existing at the time the transfer was approved.

40 [~~6~~] **(7)** The original point of diversion of surface water shall not be retained as an  
41 additional or supplemental point of diversion.

1           **(8) The Department shall approve a transfer application to return to the last**  
2 **authorized surface water point of diversion if the required transfer application is received**  
3 **within five years after the Department approves a transfer under this rule.** [*However, if*  
4 *within five years after the Department approves a transfer under this rule, the Department*  
5 *receives a transfer application to return to the last authorized surface water point of diversion,*  
6 *the application shall be approved.*] It shall be presumed, for transfers under this **subsection**, that  
7 there is no injury, including injury to rights obtained or transferred after the approval of the first  
8 transfer.

9           **(9) The Department shall approve an application to return to the last authorized**  
10 **surface water point of diversion after five years of the date the Department allows the**  
11 **transfer under section (3) of this rule if the Department receives the required application,**  
12 **and the return will not result in injury.**

13           ~~[(7)]~~ **(10) For ~~[any transfer]~~ transfers allowed under ~~[sections (1) to (5) of]~~ this rule, the**  
14 **Department shall require mitigation measures to prevent depletion from any surface water source**  
15 **not specified in the permit or certificated or decreed water right pursuant to ORS 540.531(6)[-],**  
16 **except that the Department may not require mitigation measures if the transfer complies**  
17 **with section (3) of this rule.**

18           ~~[(8)]~~ **(11) As used in this rule:**

19           (a) “Existing ground water right” means a right that existed at the time a transfer was  
20 approved under sections (1) to (5) of this rule and does not include a right established after the  
21 transfer whether by permit or a change in point of appropriation regardless of priority date.

22           (b) “Similarly” means that the use of groundwater at the new point of diversion affects  
23 only the surface water source specified in the permit or certificated or decreed water right and  
24 would result in stream depletion of at least 50 percent of the rate of appropriation within 10 days  
25 of continuous pumping.

26           (c) “Unconfined aquifer” means an aquifer in which the pressure at the upper surface of  
27 saturation is equal to atmospheric pressure.

28           **(d) “Deschutes basin ground water study area” means the Deschutes River Basin**  
29 **drainage area indicated in OAR 690, Division 505, Exhibit 1.**

30           **(12) The Department shall provide notice and review of transfer applications under**  
31 **section 3 of this rule pursuant to OAR 690-380-4000 through 690-380-4200.**

32           **(13) Opportunities to protest a transfer under section 3 of this rule shall be pursuant**  
33 **to OAR 690-380-4030.**

34           **(14) The Department shall issue final orders on transfer applications under section 3**  
35 **of this rule pursuant to OAR 690-380-5000.**

36  
37           Stat. Auth.: ORS 536.025 & ORS 536.027

38           Stats. Implemented: ORS 540.520, ORS 540.530 & ORS 540.531

39           Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0210 by WRD 4-  
40           2003, f & cert. ef. 5/1/2003

1 **690-380-2200**

2 **Changes in Place of Use**

3 No change in the place of use may be made except as described under OAR 690-380-  
4 0010 or as approved by the Department through a water right transfer or pursuant to OAR 690-  
5 380-2260.

6

7 Stat. Auth.: ORS 536.025 & ORS 536.027

8 Stats. Implemented: ORS 540.510 - ORS 540.532

9 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003

10

11 **690-380-2250**

12 **Transfer of Supplemental Water Right or Permit**

13 (1) When an application for change of the use or place of use for a primary water right is  
14 submitted in accordance with OAR 690-380-3000, the applicant also shall indicate whether the  
15 land described in the application has an appurtenant supplemental water right or permit. If the  
16 applicant intends to transfer the supplemental water right or permit with the primary water right,  
17 the applicant shall include information on the supplemental right or permit as part of the transfer  
18 application for the primary water right as required under OAR 690-380-3000.

19 (2) If the applicant does not include the supplemental water right or permit in the transfer  
20 application, the Department shall notify the applicant and the land owner, as identified under  
21 OAR 690-380-3000(13), that the supplemental water right will be canceled before the  
22 Department issues the order approving the transfer of the primary water right, unless within 30  
23 days after the date of Department notification, the applicant modifies the application to include  
24 the supplemental water right or permit or withdraws the application.

25 (3) The Department may approve the transfer of a supplemental water right or permit in  
26 accordance with ORS 540.520 and 540.530. The Department shall not approve the transfer of a  
27 supplemental water right or permit if the transfer would result in injury or enlargement.

28 (4) If the Department approves the transfer of the primary water right but does not  
29 approve the transfer of the supplemental water right or permit, the Department shall notify the  
30 applicant and the land owner, as identified under OAR 690-380-3000(13), of the Department's  
31 intent to cancel that portion of the supplemental water right or permit described in the transfer  
32 application before the Department issues the primary water right transfer order, unless the  
33 applicant withdraws the transfer application within 90 days.

34 (5) The order issued by the Department approving the transfer of a primary water right  
35 shall also cancel any appurtenant supplemental water right or permit not included in the transfer  
36 if the applicant does not modify or withdraw the application pursuant to section (2) of this rule or  
37 withdraw the application pursuant to section (4) of this rule.

38

39 Stat. Auth.: ORS 536.025 & ORS 536.027

40 Stats. Implemented: ORS 540.510 - ORS 540.530

1 Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0048 by WRD 4-  
2 2003, f & cert. ef. 5/1/2003

4 **690-380-2260**

5 **Exchanges of Water**

6 (1) A person proposing to use stored, surface or ground water from another source in  
7 exchange for supplying replacement water in an equal amount pursuant to ORS 540.533 to  
8 540.543 shall file an exchange application with the Department along with the fee required under  
9 ORS 536.050.

10 (2) After receipt of a complete exchange application, the Department shall give at least  
11 30 days public notice of the application:

12 (a) By publication in the Department's weekly notice; and

13 (b) By publication in a newspaper having a general circulation in the area in which the  
14 water uses are located at least once each week for three successive weeks.

15 (3) Any person may submit comments by the date identified in the notices prescribed by  
16 subsections (2)(a) and (2)(b) of this rule.

17 (4) After the comment period prescribed in section (2) of this rule, the Director shall:

18 (a) Issue a proposed order approving or denying the application in compliance with OAR  
19 540.537 taking into account comments received under section (3) of this rule; and

20 (b) Notify the applicant and any person who submitted comments under section (3) of  
21 this rule of issuance of the proposed order.

22 (5) If the applicant or a person who submitted comments under section (3) of this rule,  
23 requests an opportunity for a hearing, the Department shall contact the applicant and the  
24 commentors to determine if the issues raised can be resolved through negotiations. If the  
25 Department concludes that negotiations are not likely to yield resolution of the issues, the  
26 Commission shall hold a public hearing on the application.

27 (6) After the public hearing, the Commission may:

28 (a) Confirm the Director's decision and authorize issuance of a final order;

29 (b) Modify the Director's decision and authorize issuance of a final order consistent with  
30 the modifications; or

31 (c) Remand the application to the Department to seek resolution of the issues identified in  
32 the comments and, if the issues are not resolved, to initiate a contested case proceeding pursuant  
33 to the applicable provisions of ORS 183.310 to 183.550.

34  
35 Stat. Auth.: ORS 536.025 & ORS 536.027

36 Stats. Implemented: ORS 540.510 - ORS 540.532

37 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003

1 **690-380-2300**

2 **Changes in Character of Use**

3 Water may only be used for the authorized purposes in the water right except as provided  
4 under ORS 540.510(3) and (8) and ORS 540.520(8) and (9) or as approved by the Department  
5 through a water right transfer or pursuant to OAR 690-380-2340.

6

7 Stat. Auth.: ORS 536.025 & ORS 536.027

8 Stats. Implemented: ORS 540.510 - ORS 540.532

9 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003

10

11 **690-380-2320**

12 **Transfer from Supplemental Use to Primary Use**

13 A transfer application for a change in use from supplemental use to primary use may be  
14 submitted. A transfer will be allowed only to the extent the applicant can establish the quantity of  
15 water historically used under the supplemental water right. A right cannot be enlarged through  
16 this process. The primary water right shall be canceled before or at the same time as the issuance  
17 of the transfer order changing the supplemental use to primary.

18

19 Stat. Auth.: ORS 536.025 & ORS 536.027

20 Stats. Implemented: ORS 540.510 - ORS 540.530

21 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered  
22 from 690-015-0030 by WRD 4-2003, f & cert. ef. 5/1/2003

23

24 **690-380-2330**

25 **Substitution of Supplemental Ground Water Right for Primary Surface Water Right**

26 (1) As provided in ORS 540.524, the holder of both a primary surface water right  
27 certificate and a supplemental ground water right certificate or permit may substitute the use of  
28 the supplemental water right for the primary water right. This rule does not authorize a change in  
29 place of use, character of use, point of diversion or point of appropriation.

30 (2) A substitution may not be made under section (1) of this rule if the use of the  
31 supplemental ground water right results in an enlargement of the primary surface water right.

32 (3) An application shall be submitted on a form provided by the Department with the  
33 appropriate fee as established under ORS 536.050. The Department may request additional  
34 information if necessary to assist with the injury evaluation.

35 (4) Upon receiving an application, the Department shall provide notice, accept protests  
36 and conduct hearings on protests in the manner described in ORS 540.520(5) to (7) and OAR  
37 690-380-4000 to 690-380-4200.

1 (5) The Director shall issue an order approving or denying the substitution. If the  
2 proposed substitution will result in injury, the Director shall prohibit or condition the use to  
3 avoid or mitigate the injury. The Director shall issue an order approving or denying the  
4 substitution within 90 days after the Department receives an application under section (1) of this  
5 rule.

6 (6) For the purpose of this rule, a substituted primary surface water right shall be treated  
7 as a supplemental water right and a substituted supplemental ground water right shall be treated  
8 as a primary water right.

9 (7) A completed and approved substitution of a supplemental ground water right for a  
10 primary surface water right under this rule may be terminated upon a request by the water right  
11 holder or by an order of the Director if the Director determines that the use of the ground water  
12 as the primary water right causes injury. Upon termination, the substituted primary and  
13 supplemental water rights shall revert back to their original status.

14  
15 Stat. Auth.: ORS 536.025 & ORS 536.027  
16 Stats. Implemented: ORS 540.510 - ORS 540.532  
17 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003  
18

19 **690-380-2340**  
20 **Specific-to-General Industrial Water Use Change**

21 A water right transfer is not required for a general industrial use that was not included in  
22 a water right certificate issued for a specific industrial use if:

23 (1) The quantity of water used for the general industrial use is not greater than the rate  
24 allowed in the original water right and not greater than the quantity of water diverted to satisfy  
25 the authorized specific use under the original water right;

26 (2) The location where the water is to be used for general industrial use was owned by the  
27 holder of the original water right at the time the water right permit was issued; and

28 (3) The person who makes the change in water use provides the following information to  
29 the Department:

30 (a) The name and mailing address of the person using water under the water right;

31 (b) The water right certificate number;

32 (c) A description of the location of the industrial facility owned by the holder of the  
33 original water right at the time the water right permit was issued;

34 (d) The quantity of water diverted to satisfy the authorized specific use under the original  
35 water right; and

36 (e) A description of the general industrial use to be made of the water after the change.  
37

1 Stat. Auth.: ORS 536.025 & ORS 536.027  
2 Stats. Implemented: ORS 540.510 - ORS 540.532  
3 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003  
4

5 **690-380-2410**  
6 **Municipal Water Rights**

7 (1) Water used under a permit or certificate issued to a municipality, under rights  
8 conferred by ORS 538.410 to 538.450, or under the registration system set forth in ORS 537.132  
9 may be applied to beneficial use on:

10 (a) Any lands acquired by the municipality through annexation, merger, consolidation, or  
11 by the formation of a water supply authority in accordance with ORS 540.510(3)(a)(A) so long  
12 as the rate and duty allowed under the right is not exceeded;

13 (b) Subject to the limitations in section (3), lands other than those described in subsection  
14 (1)(a) of this rule in accordance with ORS 540.510(3)(a)(B) so long as the use continues to be for  
15 municipal purposes and the rate and duty allowed under the right is not exceeded;

16 (c) Any lands for which the use is authorized by the Department of Environmental  
17 Quality or Department of Agriculture under ORS 468B.050 or 468B.053 and for which a  
18 reclaimed water registration has been filed under ORS 537.132.

19 (2) A municipality may seek authorization to use water for municipal purposes on lands  
20 other than those described in section (1) of this rule under a water use subject to transfer by  
21 submitting a water right transfer application to change the place of use or character of use under  
22 OAR 690-380-3000.

23 (3) The Director may order termination of the use of water under subsection (1)(b) of this  
24 rule or, in consultation with the municipal water supplier, may impose other restrictions  
25 necessary to eliminate interference with or impairment of prior vested water rights resulting from  
26 the use of water under subsection (1)(b) of this rule.

27 (4) As used in this rule, “municipal purposes” includes municipal use, quasi-municipal  
28 use, group domestic, domestic use, and human consumption as defined in OAR Chapter 690,  
29 Division 300.  
30

31 Stat. Auth.: ORS 536.025 & ORS 536.027  
32 Stats. Implemented: ORS 540.510  
33 Hist.: WRD 19-1990, f. & cert. ef. 12-14-90; WRD 5-1996, f. & cert. ef. 7-11-96;  
34 Renumbered from 690-015-0140 by WRD 4-2003, f & cert. ef. 5/1/2003  
35

36 **690-380-2420**  
37 **Notice of Merger, Consolidation or Formation of a Water Authority**

38 (1) Municipal water supply entities that merge, consolidate or form a water authority  
39 may notify the Department of such action and request issuance of superseding certificates



1 pursuant to sections (2) and (3) of this rule. The notice and request for issuance of superseding  
2 certificates shall include the following:

3 (a) A listing of the entities in the merger, consolidation or formation of a water authority;

4 (b) A copy of the documents filed with the city, county or state authorities approving  
5 such action;

6 (c) A copy of the cooperative agreement, or other evidence, between the authority and the  
7 county or other authority granted coordinative functions under ORS chapter 197 showing  
8 consistency with local comprehensive plans;

9 (d) A listing of the certificated water rights by number of all water rights for the usual  
10 municipal purposes of all entities involved;

11 (e) A map, meeting the requirements of OAR 690-380-3100, showing the legal  
12 boundaries of the water service area and the points of diversion or points of appropriation;

13 (f) The name and address of the authority authorized to conduct business; and

14 (g) A written request that new water right certificates be issued to the authority.

15 (2) After verifying the information submitted in accordance with subsections (1)(a) to (g)  
16 of this rule, the Director shall issue superseding certificates confirming the resulting municipal  
17 use of water, showing the place of use within the legal description of the service boundaries of  
18 the new entity as it was officially formed.

19 (3) After verifying the information submitted in accordance with subsections (1)(a) to (g)  
20 of this rule, the Director shall issue certificates to supercede the certificates that were issued  
21 before a merger, consolidation or formation of a water authority. Superseding certificates  
22 describing the place of use shall be issued to the authority.

23  
24  
25  
26 Stat. Auth.: ORS 536.025 & ORS 536.027

27 Stats. Implemented: ORS 540.530

28 Hist.: WRD 19-1990, f. & cert. ef. 12-14-90; WRD 5-1996, f. & cert. ef. 7-11-96;

29 Renumbered from 690-015-0150 by WRD 4-2003, f & cert. ef. 5/1/2003  
30

31 **690-380-2430**

32 **Acquisition of Water Rights by a Water Authority**

33 (1) In addition to using the process described in OAR 690-380-2420, a water authority  
34 may acquire water rights from a municipality, a domestic water supply district, an irrigation  
35 district, a drainage district, a water improvement district, or a water control district.

36 (2) A water authority that acquires a water right may:

37 (a) Exercise the right subject to the limitations in section (4) of this rule if the right is for  
38 municipal purposes;

1 (b) Submit a request for issuance of a superceding certificate that includes the  
2 information described in section (3) of this rule if the right is a certificated right for municipal  
3 use;

4 (c) Submit a water right transfer application to change the character of use if the right is  
5 subject to transfer; or

6 (d) Submit a water right transfer application to change the point of diversion or point of  
7 appropriation if the right is a permit or a right subject to transfer.

8 (3) A request for issuance of a superceding certificate submitted pursuant to subsection  
9 (2)(b) of this rule shall be in writing and include:

10 (a) The name and address of the water authority;

11 (b) The certificate number of the water right acquired by the water authority; and

12 (c) A map, meeting the requirements of OAR 690-380-3100, showing the legal  
13 boundaries of the water service area and the existing points of diversion or points of  
14 appropriation for the right.

15 (4) The Director may restrict the use of water by a water authority to the lands described  
16 by previous water use authorizations or, in consultation with the water authority, may impose  
17 other restrictions on the use as needed to eliminate the interference with or impairment of prior  
18 vested water rights.

19 (5) As used in this rule, “municipal purposes” includes municipal use, quasi-municipal  
20 use, group domestic, domestic use, and human consumption as defined in OAR Chapter 690,  
21 Division 300.

22  
23 Stat. Auth.: ORS 536.025 & ORS 536.027

24 Stats. Implemented: ORS 540.530

25 Hist.: WRD 19-1990, f. & cert. ef. 12-14-90; WRD 5-1996, f. & cert. ef. 7-11-96;

26 Renumbered from 690-015-0130 by WRD 4-2003, f & cert. ef. 5/1/2003

## 27 **Transfer Applications**

### 28 **690-380-3000**

#### 29 **Application for Transfer**

30 Each transfer application shall be prepared in ink or typewritten on forms provided by the  
31 Department. Applications shall contain the following information concerning the primary water  
32 right and any appurtenant supplemental water right or permit, if applicable:

33 (1) Applicant’s name, mailing address, and telephone number.

34 (2) Type of change proposed.

35 (3) Name appearing on permit, certificate, decree or proof of appropriation.

36 (4) Name of decree and certificate number, if applicable.

- 1 (5) Permit number and certificate number, if applicable.
- 2 (6) Source of water (from permit, decree or certificate).
- 3 (7) Date of priority.
- 4 (8) The existing and proposed points of diversion or points of appropriation located  
5 accurately in reference to a public land survey corner.
- 6 (9) The authorized existing use of water.
- 7 (10) A description of the current water delivery system that demonstrates that the  
8 applicant is ready, willing, and able to exercise the right and includes information on the capacity  
9 of any pumps, canals, and pipelines used to divert and convey the water to the authorized use.
- 10 (11) The authorized place of use identified by its location within the public land survey  
11 and tax lot number.
- 12 (12) Evidence that the water has been used over the past five years in accordance with the  
13 terms and conditions of the right or that the right is not subject to forfeiture under ORS 540.610.  
14 The evidence shall include the following information:
- 15 (a) If the right has been used during the past five years, one or more affidavits from  
16 persons, such as the owner or operator, a neighbor, crop field person for a cannery or other  
17 product buyer, or Natural Resources Conservation Service (NRCS) representatives, who can  
18 attest from personal knowledge or professional expertise that the right was exercised at the  
19 authorized location and for the authorized purpose . Such affidavits shall state the specific  
20 grounds for the affiant’s knowledge, the specific use to which the water was put (e.g., the crops  
21 grown, the nursery stock watered), and the delivery system used to apply the water and include  
22 supporting documentation such as:
- 23 (A) Copies of receipts from sales of irrigated crops or for expenditures relating to use of  
24 water;
- 25 (B) Records such as Farm Service Agency crop reports, irrigation district records, an  
26 NRCS farm management plan, or records of other water suppliers; or
- 27 (C) Dated aerial photographs of the lands or other photographs containing sufficient  
28 detail to establish the location and date of the photograph, or
- 29 (b) If the right has not been used during the past five years, documentation that the  
30 presumption of forfeiture would be rebutted under ORS 540.610(2).
- 31 (13) A lot book report for the land to which the water right is appurtenant prepared by a  
32 title company. If the applicant is not the land owner as shown by the lot book report, the  
33 applicant shall provide a notarized and signed statement from the land owner authorizing the  
34 change. Notwithstanding the provisions of this section, any public agency that is acquiring  
35 property by condemnation and that has filed a condemnation case to acquire the property and  
36 deposited the funds in court required by ORS 35.265 to obtain the right to possess the property is  
37 a proper applicant with standing to seek transfer of any water right appurtenant to the property.  
38 Such a public agency need not obtain the consent or authorization for the change from any other  
39 person or entity.

1 (14) If any lien holders are identified in the lot book report described in section (13) of  
2 this rule, a copy of a written notification of the proposed transfer provided by the applicant to  
3 each of the lien holders.

4 (15) The proposed use of water.

5 (16) The proposed place of use shall be identified by its location within the public land  
6 survey and tax lot number. The name and address of each receiving owner(s), by parcel.

7 (17) Reason for the proposed change.

8 (18) Map as required in OAR 690-380-3100 with an original stamp and signature of the  
9 certified water rights examiner or a waiver of mapping requirements approved pursuant to OAR  
10 690-380-3410.

11 (19) Land use information as outlined in the Department's Land Use Planning Procedures  
12 Guide except for those transfers:

13 (a) Where existing and proposed water uses would be located entirely within lands zoned  
14 for exclusive farm use as provided in ORS 215.203 or within irrigation districts;

15 (b) That involve changes in place of use only;

16 (c) That do not involve the placement or modification of structures including but not  
17 limited to water diversion, impoundment, or distribution facilities, water wells, and well houses;  
18 and

19 (d) That involve irrigation water uses only.

20 (20) If the request is for a change in point of diversion to a well, or a change in point of  
21 appropriation, copies of water well reports for the authorized and proposed point of  
22 appropriation. If water well reports are not available, a description of the construction of each  
23 well, including but not limited to, well depth, static water level, casing size, and any other  
24 necessary information to establish the groundwater body developed or proposed to be developed.

25 (21) A listing of the names and mailing addresses of:

26 (a) All affected local governments, including but not limited to, county, city, municipal  
27 corporations, and tribal governments; and

28 (b) Any district in which the affected water right is located or that serves the right and  
29 any district in which the affected water right would be located or that would serve the right after  
30 the proposed transfer.

31 (22) An oath that the information contained in the application is true and accurate.

32 (23) If a portion of the fee is waived pursuant to OAR 690-380-3400, documentation  
33 showing that the proposed transfer qualifies for the fee waiver.

34 (24) The signature of the applicant, and if an entity, the title of the person signing the  
35 form.

36 (25) The appropriate fee as required under ORS 536.050, less any portion waived  
37 pursuant to OAR 690-380-3400.

38

1 Stat. Auth.: ORS 536.025 & ORS 536.027  
2 Stats. Implemented: ORS 540.510 to ORS 540.531  
3 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 10-1988, f. & cert. ef. 8-10-88; WRD 12-  
4 1990, f. & cert. ef. 8-8-90; WRD 16-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert.  
5 ef. 7-11-96; WRD 1-2000(Temp), f. 5-16-00, cert. ef. 5-16-00 thru 11-10-00;  
6 Administrative correction 6-21-01; Renumbered from 690-015-0060 by WRD 4-2003, f  
7 & cert. ef. 5/1/2003  
8

9 **690-380-3050**

10 **Additional Application Requirements**

11 (1) For the purpose of clarifying the water right record, the Department shall require the  
12 applicant to provide the additional information in section (2) of this rule if:

13 (a) The proposed transfer involves rights for lands under more than one ownership and  
14 not all of the owners are applicants; or

15 (b) The final proof survey maps on file with the Department for any quarter-quarter  
16 section in which lands involved in the proposed transfer are located do not adequately describe  
17 the location of the place of use or the associated priority dates of the associated water rights.

18 (2) The supplemental information to be provided by the applicant shall include:

19 (a) A list of the name and address of each landowner whose lands the Department  
20 concludes may be included in the portion of the water right proposed for transfer and written  
21 proof of service of a copy of the application on those landowners and a map delineating the  
22 location, acreage, priority dates, and ownership of the subject water right; and

23 (b) Other information sufficient to establish that no portion of the right to be transferred  
24 is held by persons other than those proposing the transfer and, for rights with multiple priority  
25 dates, the priority dates for the right to be transferred are consistent with the decree or other  
26 document establishing the right.

27  
28 Stat. Auth.: ORS 536.025 & ORS 536.027  
29 Stats. Implemented: ORS 540.510 - ORS 540.532  
30 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003  
31

32 **690-380-3100**

33 **Map Requirements**

34 (1) A map prepared by a certified water right examiner shall be included with a transfer  
35 application as required under OAR 690-380-3000. The map shall meet the following criteria:

36 (a) The map shall be of permanent quality and shall be printed with dark ink on a white or  
37 clear medium that is easily reproduced on a standard copy machine. Color copies that cannot be  
38 easily interpreted when copied to black and white will not be accepted.

1 (b) The preferred map size is 8 ½" x 11" (letter) at the scale of the final proof or  
2 adjudication map for the existing right of record, with supplemental detail maps as needed. If a  
3 larger map is required to provide sufficient detail, a size of 8 ½" x 14" (legal) or 11" x 17"  
4 (oversized) may be used.

5 (c) Notwithstanding subsection (1)(b) of this rule, a map size of up to 30" x 30" may be  
6 used if the Department grants advance written or e-mail approval and five copies of the  
7 application map are submitted.

8 (d) The map scale shall be:

9 (A) 1" = 400';

10 (B) 1" = 1,320';

11 (C) The scale of the final proof or adjudication map for the existing right of record;

12 (D) The scale of the county assessor map if the scale is not smaller than 1" = 1,320'; or

13 (E) Another standard engineering scale if the Department grants advance written or e-  
14 mail approval of the use of the scale.

15 (e) Horizontal field accuracy shall be consistent with standard surveying practices for the  
16 purpose of locating and quantifying water rights.

17 (f) The map shall be plotted to the accuracy consistent with the map scale.

18 (g) The locations of points of diversion and places of use shall be described by bearing or  
19 coordinates (distance north or south and east or west) from a recognized survey corner or by  
20 latitude-longitude coordinates. Latitude-longitude coordinates shall be expressed as either:

21 (A) Degrees-minutes-seconds with at least one digit after the decimal in the seconds  
22 portion (e.g., 42° 32' 15.5"); or

23 (B) Degrees-decimal with five or more digits after the decimal (e.g., 42.53764°).

24 (2) The map(s) shall include the following information:

25 (a) A north arrow, the scale, a clear legend, the certified water rights examiner's stamp  
26 and signature;

27 (b) The location of each existing and proposed point of diversion or point of  
28 appropriation;

29 (c) For a change in point of diversion or appropriation that does not also include a change  
30 in place of use, identification of the lands to be served by the proposed point of diversion or  
31 appropriation. If the proposed point of diversion or appropriation is intended to serve the entire  
32 right of record, a copy of the existing final proof survey map for the right of record may be  
33 submitted to satisfy this requirement. If the proposed point of diversion or appropriation is not  
34 intended to serve the entire right of record, the specific lands to be served shall be identified and  
35 the number of certificated acres to be served by the new point of diversion or appropriation shall  
36 be listed;

37 (d) For a change in place of use or character of use, the location of the authorized and  
38 proposed place of use of the water. If the application is for irrigation, nursery use, cranberry use,  
39 or other similar uses, the place of use indicated on the map shall be shaded or hachured and shall

1 show the number of acres in each quarter-quarter section, government lot, or quarter-quarter  
2 section as projected within government lots, donation land claims, or other recognized public  
3 land survey subdivisions;

4 (e) The location of any part of the right not involved in the proposed transfer. For  
5 transfers involving less than 67 percent of the entire place of use of the right, the map shall  
6 include at least the location of the portions of the right not involved in the proposed transfer  
7 which are included in the same quarter-quarter sections as the proposed transfer. The applicant  
8 shall have the burden of proving the proposed transfer involves less than 67 percent of the entire  
9 place of use of the water use subject to transfer. However, the Department may require a greater  
10 portion of the use subject to transfer or the entire use subject to transfer be mapped, if necessary  
11 to make a determination of potential injury;

12 (f) The location of township, section, quarter-quarter section, donation land claim, and  
13 other recognized public land survey lines;

14 (g) Notwithstanding the requirements of subsection (1)(f), the general location of main  
15 canals, ditches, flumes, pipelines, pumps, or other water delivery features;

16 (h) Notwithstanding the requirements of subsection (1)(f), the general location of  
17 physical features sufficient to assist in defining the location of the place of use of the water use  
18 subject to transfer. These features may include, but are not limited to, rivers, creeks, lakes,  
19 reservoirs, ponds, roads, railroads, fences, and direction of flow, if appropriate; and

20 (i) The location of property lines for the property involved in the transfer, in the vicinity  
21 of the transfer. For transfer of municipal, quasi-municipal, and other similar rights, the property  
22 lines need not be shown, however, the service area boundaries shall be indicated.

23  
24 Stat. Auth.: ORS 536.025 & ORS 536.027

25 Stats. Implemented: ORS 540.510 - ORS 540.532

26 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-  
27 1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0070 by WRD 4-2003, f & cert.  
28 ef. 5/1/2003

29  
30 **690-380-3200**

31 **District May Submit Application for Water Users**

32 (1) A district, authorized to act on behalf of its members, may apply for a water right  
33 transfer under the provisions of ORS 540.520. If the proposed change is for other than a change  
34 in point of diversion, the application shall contain a notarized statement from the owner of the  
35 right authorizing the proposed change.

36 (2) An application for a change in the place of use of water rights managed by a district  
37 may be made pursuant to OAR Chapter 690, Division 21.

38  
39 Stat. Auth.: ORS 536.025 & ORS 536.027

40 Stats. Implemented: ORS 540.510 - ORS 540.520

1 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered  
2 from 690-015-0020 by WRD 4-2003, f & cert. ef. 5/1/2003

3  
4 **690-380-3220**

5 **Separate Application Required for Each Water Right**

6 For changes involving more than one landowner or water use subject to transfer, a  
7 separate transfer application is required for each water use subject to transfer from each  
8 landowner involved, except under the following circumstances:

9 (1) A change in point or points of diversion or points of appropriation to a new common  
10 point of diversion or appropriation for a delivery system serving multiple rights or multiple  
11 ownerships.

12 (2) A change in use or place of use of all rights on a single parcel from all sources.

13 (3) A change in use or place of use from as many as four land owners may be allowed  
14 within a district. Such a change must be for the same water right and not total more than 10 acres  
15 transferred.

16 (4) Transfers between two parcels using water from the same source.  
17

18 Stat. Auth.: ORS 536.025 & ORS 536.027

19 Stats. Implemented: ORS 540.520

20 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 10-1988, f. & cert. ef. 8-10-89; WRD 16-  
21 1990, f. & cert. ef. 8-23-90, Renumbered from 690-015-0035; WRD 5-1996, f. & cert. ef.  
22 7-11-96; Renumbered from 690-015-0025 by WRD 4-2003, f & cert. ef. 5/1/2003  
23

24 **690-380-3400**

25 **Waiver of Fees**

26 The Director shall waive \$100 or 50 percent of the application fee, whichever is greater,  
27 for that portion of a change to a water right permit under ORS 537.211 (4) or a water right  
28 subject to transfer under ORS 540.520 or 540.523, that is:

29 (1) To establish an instream water right pursuant to ORS 537.348;

30 (2) Is necessary to complete a project funded by the Oregon Watershed Enhancement  
31 Board under ORS 541.375; or

32 (3) Determined and endorsed in writing by ODFW as a change that will result in a net  
33 benefit to fish and wildlife habitat.  
34

35 Stat. Auth.: ORS 536.025 & ORS 536.027

36 Stats. Implemented: ORS 540.510 - ORS 540.532

37 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003



1

2 **690-380-3410**

3 **Waiver of Mapping Requirements**

4 (1) The Director may waive or assist the applicant in satisfying the requirements of OAR  
5 690-380-3100 for a change to a water right subject to transfer under ORS 540.520 or 540.523, if  
6 the change is:

7 (a) To establish an instream water right pursuant to ORS 537.348;

8 (b) Necessary to complete a project funded by the Oregon Watershed Enhancement  
9 Board under ORS 541.375; or

10 (c) Determined and endorsed in writing by ODFW as a change that will result in a net  
11 benefit to fish and wildlife habitat.

12 (2) A request to waive or assist the applicant in satisfying the mapping requirements of  
13 OAR 690-380-3100 shall be submitted on a form provided by the Department. The form must be  
14 completed by the applicant and signed by the appropriate field staff prior to submittal of the  
15 transfer application.

16 (3) A waiver of mapping requirements under this rule shall only be approved if:

17 (a) The transfer would establish an instream water right as described in subsection (1)(a)  
18 of this rule:

19 (A) If the entirety of the right is being transferred to an instream water right and the  
20 location of the instream water right can be clearly delineated through reference to the existing  
21 point of diversion for the transferred right and other points of diversion or geographic reference  
22 points such as the mouth of the stream; or

23 (B) A map meeting the requirements of OAR 690-380-3100 is available showing the  
24 lands not included in the transfer and the location of the instream water right can be clearly  
25 delineated through reference to the existing point of diversion for the transferred right and other  
26 points of diversion or geographic reference points such as the mouth of the stream.

27 (b) At the determination of the Director, other circumstances are present that make an  
28 application map unnecessary.

29 (4) The assistance provided by the Department may include, but need not be limited to,  
30 development of an application map.

31

32 Stat. Auth.: ORS 536.025 & ORS 536.027

33 Stats. Implemented: ORS 540.510 - ORS 540.532

34 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003

1 **Application Notice and Review**

2 **690-380-4000**

3 **Request for Comments**

4 (1) On receipt of an application for transfer, the Department shall review the application  
5 to determine if the applicant has included the information required by OAR 690-380-3000 and if  
6 the water rights proposed for transfer are water uses subject to transfer as defined in ORS  
7 540.505(4) and OAR 690-380-0100(11).

8 (2) If the Department determines that the application does not include the required  
9 information or that the water rights proposed for transfer are not subject to transfer, the  
10 Department shall return the application and any fees to the applicant along with a written  
11 description of the deficiencies in the application.

12 (3) If the Department determines the application is complete and the water rights  
13 proposed for transfer are uses subject to transfer, the Department shall file the application and  
14 request public comments on the application:

15 (a) In the weekly notice published by the Department; and

16 (b) By mail to each affected local government and irrigation district identified by the  
17 applicant pursuant to OAR 690-380-3000(21).

18 (4) The request for comments shall provide a period of at least 30 days for interested  
19 persons to comment on the application.

20  
21 Stat. Auth.: ORS 536.025 & ORS 536.027

22 Stats. Implemented: ORS 540.510 - ORS 540.532

23 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003

24  
25 **690-380-4010**

26 **Preliminary Determination**

27 (1) After the conclusion of the public comment period described in OAR 690-380-  
28 4000(4), the Department shall prepare a preliminary determination of whether the application  
29 should be approved or rejected taking into account comments received in response to the notice  
30 provided under OAR 690-380-4000 and the considerations described in section (2) of this rule.

31 (2) The Department's preliminary determination shall include an assessment of whether:

32 (a) The right has been used over the past five years according to the terms and conditions  
33 of the right and that the right is not subject to forfeiture under ORS 540.610;

34 (b) The water user is ready, willing and able to use the full amount of water allowed  
35 under the right;

36 (c) The proposed transfer would result in enlargement;

37 (d) The proposed transfer would result in injury; and

1 (e) Any other requirements for water right transfers are met.

2 (3) For a preliminary determination that indicates that an application should be rejected,  
3 the preliminary determination shall:

4 (a) Describe the basis for the rejection; and

5 (b) Identify any conditions or restrictions that, if included in the transfer, would allow  
6 approval of the transfer.

7 (4) The Department shall provide a copy of the draft preliminary determination to the  
8 applicant and provide the applicant a period of at least 30 days to amend the application to  
9 address any issues identified by the Department in the preliminary determination, including the  
10 quantity of water to be transferred, or to withdraw the application.

11 (5) The draft preliminary determination shall constitute the notification of the  
12 Department's intent to cancel a supplemental right required under OAR 690-380-2250.

13 (6) If the applicant amends the application or provides additional information in support  
14 of approval of the application, the Department shall revise the preliminary determination as  
15 appropriate.

16  
17 Stat. Auth.: ORS 536.025 & ORS 536.027  
18 Stats. Implemented: ORS 540.510 - ORS 540.532  
19 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003  
20

21 **690-380-4020**

22 **Notice of Preliminary Determination**

23 (1) After the time for the applicant to respond to the Department's draft preliminary  
24 determination, the Department shall give notice of the transfer application and preliminary  
25 determination:

26 (a) By publication in the Department's weekly notice;

27 (b) Except as provided in section (4) of this rule, by publication in a newspaper having a  
28 general circulation in the area in which the water uses subject to transfer are located for a period  
29 of at least three weeks and not less than one publication each week; and

30 (c) By mailing notice to each person who submitted comments under OAR 690-380-  
31 4000(3).

32 (2) The notice shall include the following information about the application:

33 (a) The type of transfer proposed and any amendments to the application that were made  
34 subsequent to the notice required OAR 690-380-4000;

35 (b) The locations of the applicant's existing and proposed water uses, the amount of  
36 water allowed under the right to be transferred, and the authorized source for the right;

37 (c) The application file number;

38 (d) The applicant's name and address;

1 (e) A statement that any person may file, jointly or severally, with the Department a  
2 protest or standing statement within 30 days after the date of final publication of the notices  
3 prescribed by subsections (1)(a) and (1)(b) of this rule, whichever is **later**; [~~later;~~]

4 (f) A summary of the Department's preliminary determination; and

5 (g) For a notice published in a newspaper, the date on which the last publication will  
6 occur.

7 (3) As provided in ORS 540.520(4), the cost of publication in a newspaper shall be paid  
8 by the applicant. At the discretion of the Director, the applicant may satisfy this requirement by  
9 arranging for the publication of the notice prepared by the Department in a newspaper that meets  
10 the criteria in subsection (1)[~~(b)~~] **(b)** and providing the Department with an affidavit of  
11 publication or by paying the costs of the publication in advance to the Department.

12 (4) No notice by publication in a newspaper is required for:

13 (a) A change in place of use;

14 (b) A change in point of diversion to reflect historical use pursuant to ORS 540.532 and  
15 OAR 690-380-2120; or

16 (c) Applications for a change in the point of diversion of less than one-fourth mile and  
17 where there are no intervening diversions between the old point of diversion of the applicant and  
18 the proposed new point of diversion.

19 (5) The Department shall not take action on an application prior to the end of the protest  
20 period described in this rule.

21  
22 Stat. Auth.: ORS 536.025 & ORS 536.027

23 Stats. Implemented: ORS 540.520 & ORS 540.532

24 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 12-1990, f. & cert. ef. 8-8-90; WRD 5-1991,  
25 f. & cert. ef. 4-26-91; WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-  
26 0080 by WRD 4-2003, f & cert. ef. 5/1/2003

27  
28 **690-380-4030**

29 **Protests and Requests for Hearings**

30 (1) Within 30 days after the date of last publication of the newspaper notice or the  
31 mailing of the Department's weekly notice, whichever is later:

32 (a) Any person may file, jointly or severally, with the Department, a protest or standing  
33 statement; and

34 (b) If the Department's preliminary determination is that a proposed change in point of  
35 diversion would result in injury, the applicant may file a notification of intent to pursue approval  
36 of the transfer under OAR 690-380-5030 to 690-380-5050.

37 (2) Protests shall be filed in accordance with OAR Chapter 690, Division 2, and shall  
38 include the fee required under ORS 536.050.

1 (3) Each person submitting a protest shall raise all reasonably ascertainable issues and  
2 submit all reasonably available arguments supporting the person's position by the close of the  
3 protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide  
4 sufficient specificity to afford the Department an opportunity to respond to the issue precludes  
5 consideration of the issue during the hearing.

6  
7 Stat. Auth.: ORS 536.025 & ORS 536.027  
8 Stats. Implemented: ORS 183.310 - ORS 183.550, ORS 536.050 & ORS 540.530  
9 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered  
10 from 690-015-0085 by WRD 4-2003, f & cert. ef. 5/1/2003

11  
12 **690-380-4200**  
13 **Hearings**

14 (1) If a protest is filed under OAR 690-380-4030, the Department shall hold a hearing on  
15 the matter.

16 (2) Notice and conduct of the hearing shall:

17 (a) Be under the applicable provisions of ORS 183.310 to 183.550, pertaining to  
18 contested cases, and the hearing shall be held in the area where the rights are located unless all  
19 parties and persons who filed a protest stipulate otherwise; and

20 (b) If a protest has asserted that the water right to be transferred has been forfeited  
21 through non-use, include the notice and procedures described in OAR 690-017-0500 to 690-017-  
22 0900.

23 (3) If after hearing the Department issues a proposed final order finding that a change in  
24 point of diversion will result in injury, the applicant may file a notification of intent to pursue  
25 approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of receipt of  
26 the proposed order. Notwithstanding OAR 690-002-0170, if the applicant files a notification of  
27 intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050, the deadline  
28 for filing exceptions to the proposed order shall be 30 days after the Department provides notice  
29 to the parties that the transfer does not meet the requirements of OAR 690-380-5030 to 690-380-  
30 5050.

31  
32 Stat. Auth.: ORS 536.025 & ORS 536.027  
33 Stats. Implemented: ORS 540.510 - ORS 540.532  
34 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

## Final Orders

### **690-380-5000**

#### **Approval of Transfers**

(1) A transfer application shall be approved if the Department determines that:

(a) The water right affected by the proposed transfer is a water use subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(11) and, for a right described under OAR 690-380-0100(11)(d), the proof of completion has been approved under OAR 690-380-6040;

(b) The portion of the water right to be transferred is not cancelled pursuant to ORS 540.610;

(c) The proposed transfer would not result in enlargement as defined in OAR 690-380-0100(2);

(d) Except as provided in OAR 690-380-5030, the proposed transfer would not result in injury as defined in OAR 690-380-0100(3); and

(e) Any other requirements for water right transfers are met.

(2) The Department shall issue a final order consistent with the preliminary determination described in OAR 690-380-4010 if no protests or notifications of intent are received under OAR 690-380-4030(1).

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0050 by WRD 4-2003, f & cert. ef. 5/1/2003

### **690-380-5030**

#### **Approval of Injurious Transfers**

The Department may approve transfer of a point of diversion that would injure another water right if:

(1) For any water right other than an instream water right, the applicant files an affidavit from every holder of the injured water rights consenting to the change that conforms to OAR 690-380-5040, and

(2) For any instream water right held by the Department pursuant to ORS 537.336 or 537.346, the Department consents to the change after complying with the provisions of OAR 690-380-5050.

Stat. Auth.: ORS 536.025 & ORS 536.027

Stats. Implemented: ORS 540.510 - ORS 540.532

Hist.: WRD 4-2003, f & cert. ef. 5/1/2003

1

2 **690-380-5040**

3 **Affidavits of Consent**

4 An affidavit consenting to a proposed change in point of diversion under OAR 690-380-  
5 5030(1) shall be notarized and shall include statements that the affiant:

6 (1) Is the holder of a water right that the Department has determined would be injured;

7 (2) Has reviewed the preliminary determination or proposed order of the Department  
8 concluding the transfer would result in injury and recognizes the nature of the injury;

9 (3) Understands that approval of the proposed transfer may permanently reduce the  
10 quantity of water available for use under the water right; and

11 (4) Consents to the injury resulting from the proposed change in point of diversion.

12

13 Stat. Auth.: ORS 536.025 & ORS 536.027

14 Stats. Implemented: ORS 540.510 - ORS 540.532

15 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003

16

17 **690-380-5050**

18 **Consent to Injury of Instream Water Rights**

19 (1) If the applicant notifies the Department that the applicant intends to pursue consent to  
20 injury to an instream water right, the Department shall seek a recommendation from the agency  
21 that requested the instream water right.

22 (2) In requesting a recommendation under section (1) of this rule, the Department shall  
23 provide to the appropriate agency a copy of the preliminary determination issued under OAR  
24 690-380-4010 or proposed order issued after hearing and, to facilitate the analysis of cumulative  
25 impacts, identify any previously approved transfers injuring the same instream water right as the  
26 proposed transfer.

27 (3) If the agency that requested the instream water right recommends that the Department  
28 consent to injury, the agency's recommendation shall be in writing and include:

29 (a) A description of the extent of the injury to the instream water right;

30 (b) A description of the effect of the injury on the resource;

31 (c) An evaluation of the net benefit that will occur as a result of the proposed change that  
32 includes an analysis of the cumulative impact of any previously approved changes that injured  
33 the instream water right; and

34 (d) Any proposed conditions necessary to ensure that the proposed change will be  
35 consistent with the recommendation.

1 (4) On receipt of a recommendation to consent to injury that complies with section (3) of  
2 this rule, the Department shall provide notice of the opportunity to comment on the  
3 recommendation:

4 (a) To the applicant, any protestants or persons who filed comments under OAR 690-380-  
5 4030, and affected Indian Tribes; and

6 (b) By publication in the Department's weekly notice.

7 (5) Within 30 days after the date of the notice required in section (4) of this rule, any  
8 person may submit written comments on the recommendation or a written request for a public  
9 meeting to review the recommendation.

10 (6) The Department shall provide copies of any comments submitted in response to the  
11 notice in section (4) of this rule to the recommending agency.

12 (7) Within 90 days of receipt of a written request for a meeting on the recommendation,  
13 the Department and the agency providing the recommendation shall hold a joint public meeting  
14 to review the recommendation and to accept public comments.

15 (8) If no comments or requests are received by the Department in response to the notice  
16 provided under section (4) of this rule or if, after consideration of any written comments or the  
17 discussions during the meeting described in section (6) of this rule, the recommending agency  
18 notifies the Department that it will not withdraw its recommendation to consent to injury, the  
19 Department shall issue an order approving the transfer and consenting to the injury to the  
20 instream water right. The order shall include:

21 (a) Findings on the extent of the injury to the instream water right and the effect on the  
22 resource;

23 (b) Findings on the net benefit that will occur as a result of the change that reflect an  
24 analysis of the cumulative impact of any previously approved changes that injured the instream  
25 water right; and

26 (c) Any conditions necessary to ensure that the change will be consistent with the  
27 findings and will result in a continued net benefit to the resource consistent with the purposes of  
28 the instream water right.

29  
30 Stat. Auth.: ORS 536.025 & ORS 536.027

31 Stats. Implemented: ORS 540.510 - ORS 540.532

32 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003  
33

34 **690-380-5060**

35 **Fish Screening and By-Pass Devices**

36 (1) Pursuant to ORS 540.525, when an application for a change in point of diversion is  
37 received, the Department shall consult with the ODFW to determine whether a fish screening or  
38 by-pass device is necessary to prevent fish from leaving the body of water and entering the  
39 diversion.



1 (2) The Department’s consultation with ODFW shall determine whether the diversion is:

2 (a) Equipped with an appropriate fish screen or by-pass device; or

3 (b) Included in the list of priority screening projects established under section 8, chapter  
4 933, Oregon Laws 1989.

5 (3) If the original point of diversion is included in the priority list referenced in  
6 subsection (2)(b) of this rule, the Department, after consulting with ODFW, may require the  
7 installation of an appropriate fish screening or by-pass device at the new point of diversion.

8 (4) If requested by ODFW, a condition requiring a proper fish screen at the new point of  
9 diversion shall be attached to any transfer approval order for a change in point of diversion.

10 (5) Any individual required to install a fish screening or by-pass device under this section  
11 at a point of diversion for a diversion of under 30 cubic feet per second may participate in  
12 ODFW’s cost sharing program for the installation of screening and by-pass devices.

13  
14 Stat. Auth.: ORS 536.025 & ORS 536.027

15 Stats. Implemented: ORS 540.510 - ORS 540.525 & ORS 540.532

16 Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0073 by WRD 4-  
17 2003, f & cert. ef. 5/1/2003

18  
19 **690-380-5100**

20 **Compatibility with Acknowledged Comprehensive Plans**

21 (1) The Department and Commission shall meet requirements established in OAR 690-  
22 005-0045 (Standards for Goal Compliance and Compatibility with Acknowledged  
23 Comprehensive Plans) in evaluating and taking action on transfer applications except as  
24 specified in OAR 690-005-0025 and 690-380-3000(19).

25 (2) In the event of a land use dispute, as defined in OAR 690-005-0015 (Definitions), the  
26 Department shall follow procedures provided in OAR 690-005-0040 (Resolution of Land Use  
27 Dispute).

28 (3) The Director may presume that the transfer would be allowed by, and compatible with  
29 comprehensive plans unless an affected local government informs the Director otherwise within  
30 30 days after the date shown on the notice issued pursuant to OAR 690-380-4000.

31  
32 Stat. Auth.: ORS 197, ORS 536.025 & ORS 536.027

33 Stats. Implemented: ORS 540.510 to ORS 540.531

34 Hist.: WRD 12-1990, f. & cert. ef. 8-8-90; WRD 5-1996, f. & cert. ef. 7-11-96;  
35 Renumbered from 690-015-0057 by WRD 4-2003, f & cert. ef. 5/1/2003

1 **Miscellaneous Provisions**

2 **690-380-5110**

3 **Original Right Terminated**

4 Approval of a change in use or place of use terminates the right to use water for the  
5 existing use or place of use under the original water right as described in the transfer application  
6 form required under OAR 690-380-3000.

7

8 Stat. Auth.: ORS 536.025 & ORS 536.027

9 Stats. Implemented: ORS 540.510 - ORS 540.532

10 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered  
11 from 690-015-0040 by WRD 4-2003, f & cert. ef. 5/1/2003

12

13 **690-380-5120**

14 **Multiple Primary Water Rights on the Same Lands**

15 If the water right records show two or more rights as primary on the same land, the right  
16 with the oldest priority date shall be considered the primary water right unless the applicant  
17 designates a right, other than the right with the oldest priority date, as the primary water right.  
18 All other water rights shall be diminished to supplemental water rights.

19

20 Stat. Auth.: ORS 536.025 & ORS 536.027

21 Stats. Implemented: ORS 540.510 - ORS 540.532

22 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 16-1990, f. & cert. ef. 8-23-90; WRD 5-  
23 1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0045 by WRD 4-2003, f & cert.  
24 ef. 5/1/2003

25

26 **690-380-5130**

27 **Assignment or Change of Ownership**

28 (1) When a change of ownership or interest occurs in lands described by a transfer  
29 application or by an order approving a transfer, the record holder may request the director to  
30 record an assignment to the new owner.

31 (2) If the record holder is not available, the new owner may furnish proof of ownership to  
32 change the Department's records for that transfer. The Department shall also record a change in  
33 ownership to an heir or devisee under a will upon receiving proof of death of the record holder,  
34 or to a trustee upon receiving proof of a transfer to trust by the record holder. Proof of ownership  
35 of the involved lands shall include but not be limited to one or more of the following documents:

36 (a) A deed to the land;

37 (b) A land sales contract;

1 (c) Documentation of survivorship of property held jointly; or

2 (d) A court order or decree.

3 (3) The person making the assignment shall identify the current owner of all property  
4 involved in the transfer at the time of assignment. The person making the assignment shall  
5 furnish proof that notice of the assignment has been given or attempted for each identified owner  
6 not party to the assignment.

7 (4) When approval of a transfer for a change in place of use moves the water use subject  
8 to transfer to lands owned by another owner, the order shall contain the name and address of the  
9 receiving landowner and the Department's records shall be changed to show the receiving  
10 landowner as the transfer holder. It shall be the responsibility of the receiving landowner to  
11 complete the transfer.

12  
13 Stat. Auth.: ORS 536.025 & ORS 536.027

14 Stats. Implemented: ORS 540.530

15 Hist.: WRD 6-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert. ef. 7-11-96;

16 Renumbered from 690-015-0075 by WRD 4-2003, f & cert. ef. 5/1/2003

17  
18 **690-380-5140**

19 **Time for Completion**

20 (1) The Department shall fix a time limit in the order authorizing a change of use, place  
21 of use or point of diversion within which the approved changes may be completed.

22 (2) Extensions of time to complete a transfer may be granted pursuant to OAR 690-380-  
23 6020.

24 (3) The time allowed by the Department for completion of an authorized change shall not  
25 be used when computing a five-year period of non-use under the provisions of ORS 540.610(1).  
26 The time for completion of the change requested in a transfer application is one full year plus the  
27 time until the next October 1. The time for completion of the change of a municipal or quasi-  
28 municipal right is five years plus the time until the next October 1. A longer time for completion  
29 may be allowed if the applicant can justify the need for a longer period of time.

30  
31 Stat. Auth.: ORS 536.025 & ORS 536.027

32 Stats. Implemented: ORS 540.530

33 Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0087 by WRD 4-  
34 2003, f & cert. ef. 5/1/2003

1

## Perfection of Transferred Rights

### 2 **690-380-6010**

#### 3 **Failure to Complete a Transfer as Grounds for Cancellation**

4 (1) Upon approval of a change in use or place of use, the water use subject to transfer is  
5 considered incomplete (incomplete) until the authorized change has been completed to the  
6 satisfaction of the director.

7 (2) Any part of a transferred water use that is not applied to beneficial use under the  
8 terms of the transfer order for change in use or place of use, or within any extension of time  
9 allowed for completion, is lost.

10 (3) Non-completion of a change in point of diversion or point of appropriation does not  
11 forfeit the water use subject to transfer. However, upon expiration of the time allowed for  
12 completion, the water use shall again become subject to forfeiture pursuant to the provisions of  
13 ORS 540.610.

14 (4) For a change in point of diversion or point of appropriation, the claim of beneficial  
15 use shall identify the lands served by the new point of diversion using:

16 (a) The existing final proof survey map for the right of record; or

17 (b) Another map prepared in accordance with OAR Chapter 690, Division 14.

18 (5) A new application is required to change the point of diversion or point of  
19 appropriation to a new location not authorized by the order.

20 (6) If the change in point of diversion or point of appropriation is not completed, the  
21 point of diversion or point of appropriation shall revert to the last authorized point of diversion or  
22 point of appropriation prior to the transfer.

23

24 Stat. Auth.: ORS 536.025 & ORS 536.027

25 Stats. Implemented: ORS 540.530

26 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered  
27 from 690-015-0090 by WRD 4-2003, f & cert. ef. 5/1/2003

28

### 29 **690-380-6020**

#### 30 **Extension of Time**

31 (1) An order authorizing a water right transfer sets a time limit in which to beneficially  
32 use the water. If the transfer is not completed within the time limit, the owner may file an  
33 application for an extension of time. The application shall contain sufficient information for the  
34 director to determine reasonable diligence in the attempt to complete the project within the initial  
35 time allowed.

36 (2) If multiple receiving owners are involved, a separate application is required from each  
37 receiving owner requesting an extension.

1 (3) Extensions are granted for one year, from October 1 to October 1 of each year. An  
2 extension for up to five years may be granted for transfers involving municipal or quasi-  
3 municipal use. Extensions may be granted for longer time if the applicant can justify the need for  
4 a longer period of time by submission of pertinent evidence.

5 (4) In reviewing an application for an extension of time, the director shall determine  
6 whether reasonable diligence was made by the applicant to complete the project within the time  
7 period established under OAR 690-380-5140. Reasonable diligence shall include, but is not  
8 limited to:

9 (a) The purchase and installation of water delivery system;

10 (b) The expansion or restructuring of the existing delivery system;

11 (c) Actual use of a portion of the water according to the terms of the transfer order; or

12 (d) For municipal, quasi-municipal and group domestic uses only, the continued increase  
13 in population and number of service connections.

14 (5) Applications for succeeding extensions shall show reasonable diligence within the  
15 time allowed by the previous extension and shall be subject to the Department review based on  
16 section (4) of this rule.

17  
18 Stat. Auth.: ORS 536.025 & ORS 536.027

19 Stats. Implemented: ORS 540.530

20 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 10-1988, f. & cert. ef. 8-10-88; WRD 5-  
21 1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0100 by WRD 4-2003, f & cert.  
22 ef. 5/1/2003

23  
24 **690-380-6030**

25 **Proof Of Use; Noncompliance**

26 (1) Upon completion of a transfer, the owner of the transfer shall submit a notice of use  
27 of water to the Department.

28 (2) For transfers requested prior to July 10, 1987, when the notice is received, or at such  
29 time given in the order approving the transfer for complete application of water, if the owner has  
30 failed to submit such notice, the director may have the subject property inspected and shall issue  
31 a certificate of water right confirming the water right to the extent it has been re-established by  
32 use under the terms of the order approving the transfer. The owner may either hire a certified  
33 water right examiner to prepare the map and report required for his/her claim of Beneficial Use  
34 or wait for the Department to conduct a final proof survey on its own schedule.

35 (3) Transfers requested on or after July 10, 1987 shall have a Claim of Beneficial Use  
36 report and map prepared by a certified water right examiner in accordance with OAR Chapter  
37 690, Division 14.

38 (4) If any property described in the order approving the transfer application is not  
39 included in the request for a water right certificate, the owners of the transfer shall provide to the  
40 Department the name and address of the landowner of that property.

1  
2 Stat. Auth.: ORS 536.025 & ORS 536.027  
3 Stats. Implemented: ORS 540.530  
4 Hist.: WRD 7-1987, f. & ef. 6-11-87; WRD 3-1988, f. 2-26-88, cert. ef. 2-28-88; WRD 5-  
5 1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0110 by WRD 4-2003, f & cert.  
6 ef. 5/1/2003

7

8 **690-380-6040**

9 **Proof of Completion of Change**

10 (1) The director shall issue a certificate of water right upon satisfactory proof of  
11 completing the change or changes authorized by a transfer approval order. Satisfactory proof  
12 shall be one of the following:

13 (a) A determination by the Department that appropriation of water to beneficial use under  
14 the terms of the transfer approval order was completed to the extent authorized; or

15 (b) A determination by the Department that appropriation of water to a beneficial use  
16 under the terms of the transfer approval order was completed to an extent less than authorized.  
17 Such determination shall constitute proof for that portion of the appropriation.

18 (2) If the Department determines that proof has been made to an extent different or less  
19 than that approved, a proposed certificate of water right shall be prepared. The proposed  
20 certificate shall describe the right determined completed under the provisions of the transfer  
21 approval order. The proposed certificate shall be mailed first class to the transferee, together with  
22 notice that the transferee or the landowner has a period of 60 days from date of mailing to  
23 request the Department reconsider the contents of the proposed certificate of water right. If no  
24 request for reconsideration is received within the 60-day period, the director shall issue a water  
25 right certificate to the transferee or landowner pursuant to ORS 540.530(2) and the transfer  
26 approval order.

27 (3) If the Department determines that proof has been made to the full extent granted by  
28 the approval order, a certificate may be issued without the necessity of a proposed certificate.

29

30 Stat. Auth.: ORS 536.025 & ORS 536.027  
31 Stats. Implemented: ORS 540.530  
32 Hist.: WRD 16-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert. ef. 7-11-96;  
33 Renumbered from 690-015-0120 by WRD 4-2003, f & cert. ef. 5/1/2003

34

35 **690-380-6050**

36 **Waiver of Proof of Completion**

37 (1) The Director may waive any of the proof of completion requirements of OAR 690-  
38 380-6040, if:

1 (a) The waiver of the mapping requirements has been previously approved under OAR  
2 690-380-3410; or

3 (b) The Director determines that other circumstances are present that make any of the  
4 requirements for proof of completion unnecessary and the transfer complies with the  
5 requirements of OAR 690-380-3410 for a waiver of mapping requirements.

6 (2) The Department may assist the applicant in satisfying any of the proof of completion  
7 requirements of OAR 690-380-6040 if the transfer complies with the requirements of OAR 690-  
8 380-3410. The assistance provided by the Department may include, but need not be limited to,  
9 development of a final proof survey map and claim of beneficial use.

10  
11 Stat. Auth.: ORS 536.025 & ORS 536.027

12 Stats. Implemented: ORS 540.510 - ORS 540.532

13 Hist.: WRD 4-2003, f & cert. ef. 5/1/2003

14  
15 **690-380-6060**

16 **Petition for Reconsideration**

17 (1) A petition for reconsideration of the content of a proposed certificate may be  
18 submitted in writing to the Department by the transferee or landowner. The petition shall  
19 describe the disagreement with the proposed certificate.

20 (2) The petition shall set forth the changes to the proposed certificate or the final proof  
21 map and shall include any facts which support the request. Maps, photographs, affidavits,  
22 receipts or other such evidence may be included to support the request.

23 (3) The director may allow reasonable time beyond the time set under OAR 690-380-  
24 6040(2) for a transferee or landowner to complete and submit a written petition for  
25 reconsideration.

26 (4) Upon receipt of a petition for reconsideration, the director shall:

27 (a) Approve the petition without verification and issue a certificate with the changes  
28 included;

29 (b) Schedule field verification of the requested changes and pursuant thereto approve or  
30 deny the request; or

31 (c) Deny it by a letter to the requesting person.

32 (5) If field verification is scheduled, a new proposed certificate may be prepared and sent  
33 as prescribed by OAR 690-380-6040.

34 (6) A petition for reconsideration of a new proposed certificate issued under section (5) of  
35 this rule shall be filed in accordance with sections (1) to (3) of this rule. Such petitions shall be  
36 approved or denied by an order of the director. The order shall provide for either issuance of a  
37 certificate of water right in conformance with the director's findings, or for the scheduling of a  
38 contested case hearing as provided under OAR Chapter 690, Division 2.

1 Stat. Auth.: ORS 536.025 & ORS 536.027  
2 Stats. Implemented: ORS 540.530  
3 Hist.: WRD 16-1990, f. & cert. ef. 8-23-90; WRD 5-1996, f. & cert. ef. 7-11-96;  
4 Renumbered from 690-015-0125 by WRD 4-2003, f & cert. ef. 5/1/2003

5 **Temporary Transfers**

6 **690-380-8000**

7 **Temporary Transfers** [*Application*]

8 [~~(1) As provided in ORS 540.523, a~~] **Any** person who holds a water use subject to transfer  
9 may request that the Department approve a temporary transfer of:

10 **(1)** [~~p~~] **Place** of use or character of use identified in a right to store water for a period not  
11 to exceed five years[-] **or**

12 **(2) In the Deschutes River Basin, place of use, type of use, and point of diversion if**  
13 **necessary to convey water to the new temporary place of use, of all or a portion of a water**  
14 **right, for a period not to exceed 25 years.**

15 [~~(2) The application for a temporary transfer shall be on the Department's water right~~  
16 ~~transfer application form, shall be clearly marked "Temporary Transfer," and shall include the~~  
17 ~~following:~~

18 [~~(a) The information required in OAR 690-380-3000;~~

19 [~~(b) The length of time for which the change is being requested;~~

20 [~~(c) The appropriate fee for the transfer of the place of use pursuant to ORS 536.050; and~~

21 [~~(d) A map prepared pursuant to the requirements of OAR 690-380-3010, except it need~~  
22 ~~not be prepared by a certified water right examiner.~~

23 [~~(3) Notwithstanding the notice and time requirements of OAR 690-380-4020, the~~  
24 ~~Department shall issue an order to approve a request for a temporary transfer under this rule if~~  
25 ~~the Department determines that the temporary transfer will not injure any existing water right.~~  
26 ~~In issuing the order, the Department may include any conditions necessary to protect other~~  
27 ~~water rights.~~

28 [~~(4) All uses for which a temporary transfer is allowed under this rule shall revert~~  
29 ~~automatically to the terms and conditions of the water use subject to transfer upon expiration of~~  
30 ~~the temporary transfer period, or earlier if requested in writing by the applicant.~~

31 [~~(5) The time during which water is used under an approved temporary transfer order~~  
32 ~~does not apply toward a finding of forfeiture under ORS 540.610.~~

33 [~~(6) The Department may revoke a prior approval of the temporary transfer at any time if~~  
34 ~~the Department finds that the transfer is causing injury.~~

35 [~~(7) The lands from which the water use subject to transfer is removed during the period~~  
36 ~~of a temporary transfer shall receive no water under the transferred water right.~~



1 ~~*(8) If the Department determines that the application is incomplete or defective or that all*~~  
2 ~~*fees have not been paid, the Department shall return the application.]*~~

3  
4 Stat. Auth.: ORS 536.025 & ORS 536.027  
5 Stats. Implemented: ORS 536.050, ORS 540.520 & ORS 540.523  
6 Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0300 by WRD 4-  
7 2003, f & cert. ef. 5/1/2003  
8

9 **690-380-8002**

10 **Temporary Transfer Applications under OAR 690-380-8000(1)**

11 **(1) Applications for a temporary transfer under OAR 690-380-8000(1) shall be on**  
12 **the Department’s water right transfer application form, shall be clearly marked**  
13 **“Temporary Transfer,” and shall include the following:**

14 **(a) The information required in OAR 690-380-3000;**

15 **(b) The length of time for which the change is being requested;**

16 **(c) The appropriate fee pursuant to ORS 536.050; and**

17 **(d) A map prepared pursuant to the requirements of OAR 690-380-3100, except it**  
18 **need not be prepared by a certified water right examiner.**

19 **(2) Notwithstanding the requirements of OAR 690-380-4020, the Department shall**  
20 **issue an order to approve a request for a temporary transfer under this rule if the**  
21 **Department determines that the temporary transfer will not injure any existing water**  
22 **right. In issuing the order, the Department may include any conditions necessary to protect**  
23 **other water rights.**

24 **(3) All uses for which a temporary transfer is allowed under this rule shall revert**  
25 **automatically to the terms and conditions of the water use subject to transfer upon**  
26 **expiration of the temporary transfer period, or earlier if requested in writing by the**  
27 **applicant.**

28 **(4) The time during which water is used under an approved temporary transfer**  
29 **order does not apply toward a finding of forfeiture under ORS 540.610.**

30 **(5) The Department may revoke a prior approval of the temporary transfer at any**  
31 **time if the Department finds that the transfer is causing injury.**

32 **(6) If the Department determines that the application is incomplete or defective or**  
33 **that all fees have not been paid, the Department shall return the application.**

34  
35 Stat. Auth.:  
36 Stats. Implemented:  
37 Hist.:  
38

1 **690-380-8004**

2 **Temporary Transfer Applications under OAR 690-380-8000(2)**

3 **(1) Applications for a temporary transfer under OAR 690-380-8000(2) shall be on**  
4 **the Department’s water right transfer application form, shall be clearly marked**  
5 **“Temporary Transfer,” and shall include the following:**

6 **(a) The information required in OAR 690-380-3000;**

7 **(b) The length of time for which the change is being requested;**

8 **(c) The appropriate fee for the transfer pursuant to ORS 536.050;**

9 **(d) A map prepared pursuant to the requirements of OAR 690-380-3100, except it**  
10 **need not be prepared by a certified water right examiner;**

11 **(e) Where applicable, a description of the use of any portion of the water right not**  
12 **proposed to be transferred under OAR 690-380-8000(2);**

13 **(f) Evidence that an agreement exists between the landowner, district, and receiving**  
14 **municipality if the water right to be temporarily transferred is served by a district.**

15 **(2) Any portion of the use of a water right that is not temporarily transferred under**  
16 **OAR 690-380-8000(2) may be used on the designated part of the lands described in the**  
17 **original water right permit, certificate, or adjudication under ORS Chapter 539 as**  
18 **evidenced by a court decree, if the use:**

19 **(a) Does not encompass more than the remaining portion of the lands,**

20 **(b) Does not enlarge the water right or increase the rate, duty, total acreage**  
21 **benefited or season of use, and**

22 **(c) Is within the same land ownership as the water right proposed for transfer.**

23 **(3) If the Department determines that the application is incomplete or defective or**  
24 **that all fees have not been paid, the Department shall return the application.**

25 **(4) Notwithstanding the requirements of OAR 690-380-4020, the Department shall**  
26 **issue an order to approve a request for a temporary transfer under this rule if:**

27 **(a) The proposed temporary transfer will not result in injury to any existing water**  
28 **right or enlargement of the water right;**

29 **(b) The person holds a water right subject to transfer;**

30 **(c) The type of use specified in the original water use subject to transfer is**  
31 **irrigation;**

32 **(d) The person to whom the right is transferred is:**

33 **(A) Located with the Deschutes River Basin; and**

34 **(B) A city, a quasi-municipal corporation, a domestic water supply district formed**  
35 **under ORS Chapter 450, a water supplier as defined in ORS 448.115 or a water authority**  
36 **formed under ORS Chapter 450;**

37 **(e) The proposed use is municipal use.**

38 **(5) In issuing the order, the Department may:**

1 (a) Include any conditions necessary to protect existing water rights, including any  
2 reporting, measurement, and mapping requirements to ensure that use of any remaining  
3 portion of the right is consistent with the transfer; and

4 (b) Prescribe the duration of the temporary transfer period, up to 25 years.

5 (6) For temporary transfers proposing to use a remaining portion of the right under  
6 section 2 of this rule, the Department shall require the installation of a measuring device,  
7 monthly recording of water use, and annual reporting of water use.

8 (7) All temporary transfers allowed under this rule shall revert automatically to the  
9 terms and conditions of the water use subject to transfer upon expiration of the temporary  
10 transfer period, or earlier if requested in writing by the applicant.

11 (8) The time during which water is used under an approved temporary transfer  
12 order does not apply toward a finding of forfeiture under ORS 540.610.

13 (9) The Department may revoke a prior approval of the temporary transfer at any  
14 time if:

15 (a) The Department finds that the transfer is causing injury or results in  
16 enlargement; or

17 (b) Reporting, mapping, or measurement conditions associated with use of any  
18 remaining portion of the right under section 2 of this rule are not met.

19 (10) Prior to revoking a temporary transfer under this rule for failing to comply  
20 with any of the conditions of the transfer, the Department may seek compliance with the  
21 terms of the temporary transfer.

22 (11) The Department shall provide notice and review of temporary transfer  
23 applications under this rule pursuant to OAR 690-380-4000 through 690-380-4200.

24 (12) Opportunities to protest a temporary transfer under this rule shall be pursuant  
25 to OAR 690-380-4030.

26 (13) The Department shall issue final orders on temporary transfer applications  
27 under this rule pursuant to OAR 690-380-5000.

28  
29 Stat. Auth.:

30 Stats. Implemented:

31 Hist.:

32  
33 **690-380-8010**

34 **Seasonal Use**

35 Except as provided in OAR 690-380-8004, the [The] lands from which the water use  
36 subject to transfer is removed shall receive no water, under the appurtenant rights, during the  
37 period of a temporary transfer. In the case of a temporary transfer approved during the season for  
38 which there is a specified season of use, such as the irrigation season, the lands from which the  
39 water use subject to transfer is being removed shall have received no water, under the

1 appurtenant rights, during that season, including water used prior to the approval of the  
2 temporary transfer. If the lands have received water, under the appurtenant rights, during that  
3 season, the temporary transfer may not take effect until the following season.

4  
5 Stat. Auth.: ORS 536.025 & ORS 536.027

6 Stats. Implemented: ORS 540.523

7 Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0310 by WRD 4-  
8 2003, f & cert. ef. 5/1/2003

9  
10 **690-380-8020**

11 **Supplemental Water Rights**

12 (1) When an application for a temporary transfer of the place of use is filed with the  
13 Department, the applicant also shall indicate whether the land described in the application has an  
14 appurtenant supplemental water right or permit. The applicant shall also indicate whether the  
15 supplemental water right or permit is intended to be temporarily transferred with the primary  
16 water right or to remain unexercised at the place of use as described in the original water right  
17 during the period of the temporary transfer.

18 (2) If the applicant also intends to temporarily transfer the supplemental water right or  
19 permit, the applicant shall include the information required under OAR 690-380-3000 and 690-  
20 380-8000 for the supplemental water right or permit.

21 (3) If an existing supplemental water right or permit is not included in the temporary  
22 transfer application, the Department shall notify the applicant and the land owner, as identified  
23 under OAR 690-380-3000(13), that the Department will cancel the supplemental water right or  
24 permit before issuing the order approving the temporary transfer of the primary water right.

25 (4) Notice by the Department shall be sent by certified mail, return receipt requested. The  
26 notice shall contain the following:

27 (a) A description of the supplemental water right or permit and the land to which it is  
28 appurtenant;

29 (b) A statement that the applicant and land owner, as identified under OAR 690-380-  
30 3000(13), has 30 days, from the date of the notice, to either modify the application to include the  
31 supplemental water right, or withdraw the application.

32 (c) A statement that, unless the applicant complies with subsection (4)(b) of this rule, the  
33 supplemental water right or permit shall be canceled before the Department issues the order  
34 approving the application for the temporary transfer of the primary water right.

35 (5) If the application is withdrawn, the Department shall keep the examination fee, and  
36 shall refund any other fees submitted with the application.

37 (6) If the application is not modified or withdrawn, the director shall enter an order  
38 canceling the supplemental water right before issuing the order approving the temporary transfer  
39 of the primary water right.

1 (7) The Department shall not approve the temporary transfer of a supplemental water  
2 right or permit if the temporary transfer would result in injury or enlargement.

3 (8) If the Department approves the temporary transfer of the primary water right but does  
4 not approve the temporary transfer of the supplemental water right or permit, the Department  
5 shall notify the applicant of the Department's intent not to allow the temporary transfer of the  
6 supplemental water right or permit before the Department issues the order approving the  
7 temporary transfer of the primary water right. The notice shall inform the applicant that the  
8 supplemental water right or permit shall remain appurtenant to the land described in the  
9 application, but may not be exercised until the primary water right reverts to the original water  
10 use.

11 (9) If the primary water right does not revert soon enough to allow the use of water under  
12 the supplemental water right within five years, the supplemental water right shall become subject  
13 to cancellation for nonuse under ORS 540.610.

14  
15 Stat. Auth.: ORS 536.025 & ORS 536.027

16 Stats. Implemented: ORS 540.523

17 Hist.: WRD 5-1996, f. & cert. ef. 7-11-96; Renumbered from 690-015-0320 by WRD 4-  
18 2003, f & cert. ef. 5/1/2003

19  
20 **690-380-9000**

21 **Clarification of Water Rights**

22 (1) If the Director decides that a certificate of water right does not identify the lands to  
23 which the right is appurtenant with sufficient specificity for management, delivery, or transfer of  
24 that right, the Director may issue an order clarifying and defining the description of the land to  
25 which the right is appurtenant.

26 (2) A clarification order may not reduce the rate, duty or number of acres stated in the  
27 perfected right. The sole purpose of the order is to better define the location to which the water  
28 right is appurtenant.

29 (3) Any order issued under this section shall be served on the legal owner of the land to  
30 which the water right is appurtenant and on the occupant of the land, by certified mail, return  
31 receipt requested. If the owner or occupant files a written request for a hearing within 30 days  
32 after service of the order, the Director or the Director's authorized assistant shall conduct a  
33 hearing of the matter under the provisions of ORS 183.413 to 183.484.

34 (4) If no exceptions or objections to a proposed order issued under this rule are filed  
35 within the time allowed, the Director shall issue a final order. Said final order shall be filed with  
36 the certificate that the order clarifies. For all purposes, the final order shall constitute the  
37 description of the land to which the water right is appurtenant.

38  
39 Stat. Auth.: ORS 183, ORS 339, ORS 536, ORS 537, ORS 540 & ORS 649

40 Stats. Implemented:

1           Hist.: WRD 10-1988, f. & cert. ef. 8-10-88; Renumbered from 690-015-0400 by WRD 4-  
2           2003, f & cert. ef. 5/1/2003  
3