



ORS 540.587: Temporary Transfers in the Deschutes

Overview: Oregon Revised Statutes (ORS) 540.587, requires annual reporting on implementation of ORS 540.585, which provides that the Water Resources Department may allow temporary transfers within the Deschutes Basin between irrigation water right holders and municipal water users in certain instances.

Background: ORS 540.585 was passed by the Oregon Legislature in 2003. At the time, growth pressures in the Deschutes River Basin had increased demand for new water supplies, with a particular emphasis on groundwater. However, it was also determined by the Department that new uses of groundwater in certain parts of the Basin could impact existing surface water rights and scenic waterway flows. In 2002, the Water Resources Commission adopted rules allowing additional appropriations of groundwater and requiring mitigation of impacts to scenic waterway flows and senior water rights. As a result, the Department formalized a program for developing and obtaining mitigation credits in the Upper Deschutes Basin, which has served as the primary mechanism for allowing development of new groundwater uses.

New groundwater permits and mitigation are not the only mechanism to satisfy increased water demand in the Deschutes River Basin. Water right transfers allow changes to be made to existing water rights, which also provide a means to accommodate new uses, while protecting the Deschutes River and other existing water rights. While there are different authorities that allow the Department to approve transfers, the provisions of ORS 540.585 were established to provide an additional mechanism and greater flexibility for water use in the Deschutes Basin in limited circumstances.

Program Features: ORS 540.585 allows, under certain circumstances, the temporary transfer of the place of use and type of use, of all or a portion of a water right, for a period not to exceed 25 years. The point of diversion may also be moved if necessary to facilitate a change in place of use. Criteria include that the water right is used in the Deschutes Basin, the originating right is for irrigation, and the proposed use is municipal use. Any portion of the water right not temporarily transferred may be used on lands described in the original water right if it does not result in injury to any existing water rights nor enlargement of the water right proposed for transfer. Other standard criteria for temporary transfers also apply.

Implementation and 2020 Applications: ORS 540.585 is implemented under Oregon Administrative Rules 690-380-8000(2) and 690-380-8004, which went into effect in 2004. Other tools in the Deschutes Basin related to mitigation have been and continue to be the primary mechanism for meeting new groundwater demands. In 2020, the Department did not receive any temporary transfer applications within the Deschutes River Basin under ORS 540.585; however, the Department did issue a final decision to deny an application that was pending – Temporary Transfer Application T-13238 (originally filed in 2019). The application was denied for failure to meet approval criteria.

Specifically, the application was denied because the proposed point of appropriation would not draw water from the same source as the currently authorized point of appropriation, the proposed use was not municipal use, the proposed change would result in injury to other water rights, and the application contained deficiencies related to lack of consent from all owners of the water right proposed for transfer.

For More Information

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