



**IRRIGATION DISTRICT PILOT PROJECT FOR TEMPORARY TRANSFERS
SENATE BILL 664 (2009) IMPLEMENTATION REPORT**

**OREGON WATER RESOURCES DEPARTMENT
JANUARY 30, 2015**

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Background

Senate Bill 820 (2003) established a pilot to allow three districts to temporarily change the place of use of water rights for one irrigation season without filing a water right transfer application and receiving approval from the Oregon Water Resources Department (Department). The original pilot was scheduled to sunset on June 30, 2008 (see SB 820, Section 23-25).

Senate Bill 89 (2007) extended the pilot to June 30, 2010. The sunset was extended due to the limited history and experience with the annual temporary transfer process that was being piloted, particularly since the program was not fully utilized until the 2006 irrigation season. Extending the sunset was proposed to allow the Department and pilot districts to develop a longer “track record” for assessing this new approach.

In 2009, the Legislature passed SB 664, which expanded the pilot project participants to 15 districts¹ (listed in Table 1 below) and extended the pilot project to June 30, 2016. The expanded list of districts involved in the pilot project could begin temporary transfers under the program during the 2010 irrigation season. SB 664 also required the Department to report on the operation of the pilot project to the 78th Legislative Assembly by January 31, 2015.

Overview of the District Temporary Transfer Pilot Project Requirements

Under the pilot project, qualifying districts can make temporary annual place of use changes to water rights within their legal boundaries without applying to the Department for a temporary transfer. To temporarily change the place of use of water rights under the pilot program, districts are required to satisfy standard water right transfer criteria. This means that districts are responsible for ensuring the land from which the water right is being transferred does not receive water for the irrigation season in which the change in place of use occurs. Districts are also responsible for ensuring there is no expansion or enlargement of the acres irrigated or in the amount (rate and duty) of water use. In addition, districts are required to maintain and make available for review upon request, maps showing the change in place of use as well as records of water use authorizations. The place of use automatically reverts to the original location the next year.

Ultimately, the goal of the pilot is to allow districts to undertake annual temporary transfers to provide districts with greater water management flexibility, while also ensuring that there is no injury to other water rights or an expansion of the authorized irrigated acres.

¹ A provision in SB 664 allows for replacement of a district provided one of the specified districts was unable to participate. This provision has not yet been used.

Pilot Project Implementation

Table 1 summarizes the temporary changes made between the 2010 and 2013 irrigation seasons and the total acres involved for each of the 15 districts authorized to participate in the pilot project. There were five districts that were eligible but did not participate during the four years: Arnold, Hermiston, Medford, Owyhee, and Swalley Irrigation District. Of the ten participating districts, in any given year, no more than eight of the eligible districts utilized the program and only four districts utilized the program during all four years. The number of acres that each district transferred under the program varied from a low of less than one acre for Talent Irrigation District in 2011, to a high of over 6,000 acres for Tualatin Valley Irrigation District in 2013.

TABLE 1. REPORTED PILOT PROJECT TRANSACTIONS FOR 2010 - 2013				
District	Acres			
	2010	2011	2012	2013
Arnold Irrigation District	0	0	0	0
Central Oregon Irrigation District	21.2	149.62	194.71	203.29
Hermiston Irrigation District	0	0	0	0
Medford Irrigation District	0	0	0	0
North Unit Irrigation District	0	78.6	24.1	0
Ochoco Irrigation District	44.6	5.3	0	0
Owyhee Irrigation District	0	0	0	0
Santiam Water Control District	0	0	182.84	93.26
Stanfield Irrigation District	157.2	182.95	192.25	133.8
Sutherlin Water Control District	4.5	4.5	4.5	4.5
Swalley Irrigation District	0	0	0	0
Talent Irrigation District	0	0.23	0	0
Tualatin Valley Irrigation District	2000	4280.9	5981.4	6129.3
West Extension Irrigation District	0	0	241.75	264
Westland Irrigation District	7.55	0	7.5	7.55
Total:	2235.05	4,702.10	6,829.05	6835.7

The 15 districts authorized to participate in the pilot project are geographically distributed across the Oregon landscape and represent a diversified agricultural sector. For example, Tualatin Valley Irrigation District, located in northwest Oregon, represents an agricultural sector that grows a variety of specialty crops, while Owyhee Irrigation District, located in the southeast Oregon, represents a district where traditional cropping patterns still dominate. Some of the other participating districts are composed of small land parcels in areas that have experienced population growth and urbanization. In addition, the economic downturn may have reduced water users needs to make temporary place of use changes.

The nature of the districts drives the demand for temporary changes in place of use. Because of the dynamic nature of specialty crops produced in Tualatin Valley, coupled with water availability issues, demand is high for seasonal changes to accommodate crop rotations. Conversely, for users within Owyhee Irrigation District, the present relatively static nature of cropping patterns has led to a limited need for temporary place of use changes to accommodate seasonal changes in water use.

Accountability and Compliance

As outlined below, an assessment of the pilot project based on the temporary changes made suggests the pilot project satisfies the purpose for which it was enacted. However, the Department continues to annually evaluate the pilot project program and work with districts and the Oregon Water Resources Congress to make improvements and conduct trainings as necessary to ensure the program is working as intended.

Notices - Districts and the Department have developed a process so that the local Watermaster is informed of the changes that are conducted under the pilot program. A map is submitted to the Watermaster, which is then reviewed to ensure that there is no enlargement or injury. Watermasters also use the maps as they undertake their seasonal water distribution and regulation activities. Districts have reported that this process is effective and efficient. Having this information on hand at Watermaster Offices also helps the Watermaster respond to inquiries locally about these changes in place of use.

The Department's staff have found problems with some of the notices (maps) received under the program. The Department has been working with the districts and Oregon Water Resources Congress to improve the quality and timeliness of information received, so that the process can be conducted efficiently.

Water Use Measurement and Reporting - Although field staff have confirmed that the participating districts have devices to fully and accurately measure the water appropriated, until recently, ascertaining reporting of water use had proven to be a challenge. The nature of the water use reporting database structure and lack of adequate staffing made it difficult to verify measurement and reporting compliance.

In 2013, the Oregon Legislature funded a Department position for water use reporting, which had previously been unfunded. Staff have since focused on improving the Water Use Reporting Program, including providing technical assistance, sending out reminders of the requirement to report, conducting outreach and presentations, and improving the water use reporting system to make it more user friendly. These recent efforts should help in addressing challenges associated with validating districts' compliance with measurement and reporting. Staff are in the process of reviewing the information that has been obtained as a result of increased water use reporting thus far. The Department expects that these efforts will lead to improved data in the future.

Injury and Enlargement - A review by Watermasters of the temporary changes implemented by districts under the program determined there has been no injury to other water rights and two instances of incidental enlargement (one each in 2011 and 2012) on less than five acres, which were addressed with timely, voluntary compliance. Since then, the Department has requested that notice be submitted prior to the changes occurring in order to allow the Watermaster to evaluate the notice and prevent enlargement before it occurs. In addition, the Department has received no complaints of injury to other water rights as a result of changes pursued under the pilot program. The pilot program, therefore, is generally providing the districts with more management flexibility, while also ensuring that other water users are protected.

Recommendation

Based on a review of the program, the Department recommends extending the sunset on the pilot program in order to allow additional time to assess its implementation.