



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

Senate Environment and Natural Resources Committee  
Senator Chris Edwards, Chair

Testimony on Senate Bill 267  
“Extending Irrigation District Pilot Project Allowing Temporary Transfers within Boundaries”

Presented by: Tom Byler, Director and Racquel Rancier, Senior Policy Coordinator  
March 9, 2015

Thank you for the opportunity to present testimony in support of Senate Bill 267, a bill that would extend a pilot project program that authorizes irrigation districts to temporarily change the place of use of water rights within their boundaries without applying for a transfer with the Department.

#### **Background**

In 2003, the Legislative Assembly authorized a pilot project allowing Talent, Tualatin Valley, and Owyhee Irrigation Districts to make annual place of use changes to water rights within their legal boundaries without making application to the Water Resources Department for a temporary transfer.

The intent of the pilot project is to look for ways to provide increased flexibility for irrigation districts to temporarily change the place of use of water rights without reducing protections for existing water users. To temporarily change the place of use of water rights under the pilot program, districts are required to satisfy standard water right transfer criteria and maintain records. This includes ensuring that there is no injury to other water rights or an expansion of the authorized irrigated acres.

Between passage of the legislation in 2003 and the 2007 legislative session, only a small number of transfers were completed under the pilot and there was insufficient data available to assess how well the program functioned. The program was extended in 2007, providing an additional two years for the three pilot districts to continue testing the approach. In 2009, the Department reported to the legislature that the program seemed to be working and no injury or enlargement had been found. The Department recommended, and the Legislature agreed, that the program should be continued and expanded to allow further assessment of its implementation. The program was expanded to include 15 irrigation districts and set to sunset June 30, 2016.

#### **Pilot Project Evaluation**

As outlined in the January 2015 report to the Legislature, the Department continues to annually evaluate the pilot project program, working with districts and the Oregon Water Resources Congress to make improvements and conduct trainings as necessary to ensure the program works as intended.

In 2014, the Department conducted an evaluation of the program and found that five of the 15 districts did not use the program, and only four districts utilized the program every year. Between 2010 and 2013, no instances of injury to other water rights were found and there were two instances of incidental enlargement on less than five acres in each instance (2011 and 2012), which were addressed with timely, voluntary compliance. Since the two instances of enlargement, 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.

The pilot program is providing the districts with more management flexibility, while also ensuring that other water users are protected. Based on the evaluation of the program, the Department is recommending continuation of the pilot program to further assess its implementation.

#### **What the Bill Does**

Senate Bill 267 requires a report to the Legislature no later than January 31, 2021 on implementation of the pilot program and extends the sunset on the program to January 2, 2022.

#### **Proposed -1 Amendment**

The Department worked with stakeholders to develop the proposed -1 amendment. The -1 amendment clarifies that the program applies to irrigation transfers. It also requires the Department, prior to the irrigation season each year, to provide notice of the districts that believe they will use the program. Finally, if a district that is not specified in the bill seeks to utilize the pilot program in lieu of another district, the amendment requires the Department to provide notice and allow the public to provide information that could help the Department determine whether the district meets the criteria to participate in the program. The Department supports adoption of the -1 amendment.



## Oregon Water Resources Congress

437 Union St. NE | Salem, OR 97301 | Phone: 503-363-0121 | Fax: 503-371-4926 | [www.owrc.org](http://www.owrc.org)

March 9, 2015

**To:** Chair Chris Edwards, Vice-Chair Alan Olsen, and Members of the Senate Environment and Natural Resources Committee

**RE:** Testimony in Support of SB 267-1, Extension of District Temporary Transfer Pilot Program

---

Dear Chair Edwards, Vice-Chair Olsen, and Members of the Committee:

The Oregon Water Resources Congress (OWRC) is testifying in support of SB 267, with the -1 amendment. **SB 267 -1 will continue an important pilot program that provides much needed flexibility to irrigation districts so that they can efficiently deliver water resources to the farmers they serve.**

OWRC is a nonprofit association representing irrigation districts, water control districts, improvement districts, drainage districts and other government entities delivering agricultural water supplies. The water stewards we represent operate complex water management systems, including water supply reservoirs, canals, pipelines, and hydropower production, and deliver water to roughly 1/3 of all irrigated land in Oregon. OWRC has been promoting the protection and use of water rights and the wise stewardship of water resources on behalf of agricultural water suppliers for over 100 years.

### **Background & Need**

SB 267 -1 will extend the sunset of a program that allows fifteen specified districts to transfer irrigation water within their district using an expedited process through the Oregon Water Resources Department (WRD). The program allows for a less cumbersome application process that saves time and money and is only used for simple "place of use" transfers that revert to their original place at the end of the irrigation season. The districts are required to provide records, reports, and other information to local WRD staff and the headquarters in Salem as well as keep available at the district office. Participants still have to follow the standard water right transfer criteria but are able to put the water to use without going through a more lengthy and expensive review by WRD.

As an example, in early spring a farmer decides that he does not need irrigation water on Parcel A and through this program the district can transfer that water to another district farmer who needs that amount of water on Parcel B. After the end of irrigation season, the place of use for that water right returns to Parcel A and the farmer can decide what do with the water right next year. Weather, crop prices, and other circumstances factor into whether or not an individual farmer needs more or less water and sometimes these decisions are made just prior to irrigation season starting. The traditional temporary transfer process can take several months which is why having the expedited process through this pilot program is so crucial.

The transfer pilot program has little to no risk of water injury as it is only applicable to water transfers within district boundaries and requires the consent of the landowners whose water rights are subject to transfer. There are a variety of safeguards in place and WRD has the ability to discontinue a specific temporary transfer as well as an individual district's participation in the program. There are also ongoing efforts between WRD and OWRC to improve the pilot program's efficiency in anticipation of its eventual permanence. To date, there have not been any injuries to other water rights from the program.

***The mission of the Oregon Water Resources Congress is to promote the protection and use of water rights and the wise stewardship of water resources.***

### **History**

The program was created by the 2003 Legislature (SB 820) and originally had three participants. The program was extended in 2007 (SB 89) and further extended and expanded in 2009 (SB 664) to include the fifteen current districts, which are a geographically diverse set of small and large agricultural water suppliers. While WRD has been successful in reducing the backlog of pending applications, the traditional temporary transfer process has a more extensive review that doesn't fit these simple transactions and it can still take several months to be processed. This situation is untenable for a farmer that needs water during the current irrigation season and can be alleviated through participation in the district transfer pilot program.

Since the pilot program's inception, OWRC, the participating districts, and WRD have worked together to clarify and improve the program so that it meets the intent of providing districts with needed flexibility while ensuring responsible management of the water resources. Revisions have been made to the type and timing of various reporting mechanisms, including ensuring that the local Watermasters receive accurate maps showing the "from" and "to" lands involved in the temporary transfer prior to the changes occurring. There are also ongoing efforts to ensure that the reporting methods keep pace as mapping and other technologies change while allowing other districts to use more traditional methods as they upgrade computers and software capabilities.

OWRC and WRD also periodically provide training to the participating districts to ensure compliance as well as clear expectations for both districts and WRD staff. Additionally, there is open communication between WRD (headquarters and the local offices), OWRC, and the participants and a strong commitment to identify and address any issues that may arise in the pilot program as early as possible. This ongoing partnership, open communication, and commitment to dual education has been instrumental in making the program run smoothly for both district and WRD staff as well as providing the foundation for the program's permanence.

We would like the pilot program to become permanent and expanded to include more districts; however, since the expansion in 2009, the economic and water conditions did not yield the number of transactions we would like to have before making the program permanent. Furthermore, some of the districts that were added into the program needed time to learn more about the program before participating. Our districts are anxiously waiting for the 2015 Legislature to extend the sunset on this valuable program and expect to have a high rate of participation this irrigation season and in future years.

### **-1 Amendment**

The -1 amendment builds upon existing safeguards in the pilot program by adding language that clarifies that the water rights transferred under the program are for irrigation use and ensuring there is adequate transparency and notice of the program's use by districts. OWRC is supportive of the amended language because it elucidates some of the protections that are in place to ensure that these temporary transactions are in alignment with state water law and do not injure other water users. We also support the amendment because by addressing stakeholder concerns now we are making progress towards having the program as a permanent tool for districts to use in the future.

In summation, the district temporary transfer pilot program is very valuable tool for the participating districts and the farmers they serve. With the numerous benefits and minimal risks of this program we look forward to future legislative discussions about the permanence of this program. I have enclosed letters of support from several of the participating districts and all participating districts are supportive of the extension of the program and of SB 267 as amended.

**We respectfully request that you support SB 267-1 and help provide irrigated agriculture with the tools and flexibility needed to efficiently manage Oregon's limited water supplies.**

Sincerely,  
April Snell  
Executive Director



# STANFIELD IRRIGATION DISTRICT



100 W COE / PO Box 416

STANFIELD OR 97875

OFFICE: 541-449-3272

FAX: 541-449-1239

[stanfieldid@uci.net](mailto:stanfieldid@uci.net)

February 3, 2015

## Extending District Temporary Transfer Pilot Program

To Whom It May Concern:

The Stanfield Irrigation District believes that the Pilot Program has had a great impact to the District. Our District has many forty to eighty acre square fields. Most of our farmers have put in pivot/circle irrigation, which leaves the corners of the field dry. The Pilot Program works well in the district for the farmer to add up all of the corners and temporarily transfer this to another field (within our boundaries). This helps cut the cost of labor, time and materials to the farmer. They no longer have to purchase hand lines for each corner and send someone out to move them. This program also gives them the ability to diversify their crops.

The Pilot Program also works well with the elderly and widowers in our district with small tracks of land (0.50 – 10.0 acres). They are able to maintain their water right even when they are no longer able to farm their land. If the District and State charge to temporarily transfer their right, they may not be able to afford it, and this program helps them keep their Water Right.

I, Ray Kopacz, have been the Manager of Stanfield Irrigation District for fourteen years. I believe in this Pilot Program and hope it is extended for another six years or longer.

Thank you,

Ray Kopacz

## April Snell

---

**From:** Pam Watson <pwatson@northunitid.com>  
**Sent:** Monday, February 09, 2015 3:34 PM  
**To:** 'aprils@owrc.org'  
**Cc:** Mike Britton; Vicki McKelvy  
**Subject:** SB664 RE: Help needed with Extending Irrigation District Temp Transfer Pilot Program

April,

North Unit Irrigation District, would like to see the pilot program for Senate Bill 664 continue indefinitely. The District had its largest amount of participants and acres for the 2014 water season and we expect to have the same for the 2015 water season. Our water users greatly appreciate the convenience and flexibility to make decisions on their crop changes. If this was not in place it would not allow them to make last minute decisions or changes because the alternative would be a lengthy and expensive process. The beneficial use aspect of the project is a great asset to both the water users and the District, it is a great way to serve both our needs. District staff has a good working relationship with its water users and would like to continue with the option of SB 664.

Examples would be:

-A farmer wanting to plant a specialty seed crop but the only land available thru the seed company due to area specifications would be a piece of land without water rights, the farmer can move some of his water rights from another piece of land he is farming at not a great expense and last minute decisions can be made.

-A farmer has decided to sell his water rights, he is getting close to his 5 year nonuse, due to timing a temporary transfer is the best choice until the permanent transfer can be filed.

-A farmer wants relocate a portion of his water right on his land, but the cost involved with a permanent transfer is something he cannot currently afford . The farmer is getting close to his 5 year nonuse so he has decided to do a temporary transfer to another farmer.

If you have any questions please feel free to contact me.

Regards,

*Pam Watson*  
Pamela Watson  
Water Records Clerk  
North Unit Irrigation District  
2024 NW Beech Street  
Madras, OR 97741  
(541) 475-3625  
(541) 475-3905 fax  
[pwatson@northunitid.com](mailto:pwatson@northunitid.com)

## SB 664 TEMPORARY DISTRICT TRANSFER PROGRAM

Leslie Clark  
Water Right Manager  
Central Oregon Irrigation District

Central Oregon Irrigation District operates and maintains two main canals and many laterals and sub-laterals (totaling approximately 450 miles), delivering 43,000 acres of water to over 3600 water users. Our deliveries vary in size from small rural subdivisions with appurtenances of 0.10 to 5 acres of irrigation water up to large farms with production crops and livestock operations.

Each year we are contacted by district water users that want to expand their irrigated lands and by property owners that do not currently have water rights but want to obtain them. Very few landowners with appurtenant district water rights want to permanently remove the water, which is causing the district a supply challenge.

We also have water users that do not want to irrigate their land for a multitude of reasons i.e. illness, lack of time, can't afford to improve their systems etc. but they do not want to permanently remove the water and lose the value to their property.

The SB 664 temporary transfer program has become an excellent tool in our toolbox. SB664 provides the district an easy way to help our water users meet their annual water needs. It provides the off-lands a way to receive beneficial use of their water right and the receiving landowners the water they need at a minimal cost, allowing them to contribute to the local economy through increased production.



OREGON  
WATER  
RESOURCES  
CONGRESS

BILL # *SB 494*  
SENATE WATER & LAND USE  
EXHIBIT: *B*  
DATE: *2-21-95* PAGES: *3*  
SUBMITTED BY: *Boettcher*

727 Center St. NE, Suite 107

Salem, OR 97301-3821

(503) 363-0121

FAX (503) 371-4926

February 21, 1995

Attention: Senate Water and Land Use Committee

RE: SB 494

#### USE OF PROCESS IN OTHER STATES

##### *Washington*

The Washington law, referred to in Ms. Achterman's testimony, was adopted in 1991. As a result of the adoption, districts in Washington state have been transferring water within their boundaries both on a temporary and permanent basis. However the new law is not the impetus for those actions. The Washington districts have always handled their own water right transactions within their boundaries and took the opportunity to place the process in statute to affirm what was already occurring.

As a result, Washington districts have their own policies and procedures as to how the transfers can occur.

Carol Flakes, currently the manager of the water rights division of the Department of Ecology recently spoke to a group of water users indicating that due to the department's backlog, many of their duties were being channeled to other resources. The districts handle their own transfers; livestock exemptions have been granted wholesale and other programs have been moved to other resources.

##### *Utah*

The Utah districts have operated pretty much historically since their inception in the process Washington's law describes. As Gail mentioned, the basis of their process is litigation in the Utah Supreme Court in 1939.

##### *Federal Interface*

Both Washington state and Utah have major federal projects. In some cases the Bureau holds the water right in trust with the district and the landowners. The Bureau has worked cooperatively with the districts in using this process.

#### OREGON'S DISTRICTS' ROLE IN WATER MANAGEMENT

The districts have continued to upgrade tools to achieve better management and more flexibility in water use. The reason flexibility is so important is that we have experienced more than 7 years of drought and to use that water most beneficially, we have to apply it to the lands which provide the highest economic benefit. In many cases, districts have been able to get only 50% or less of their water right in the

Exhibit I, page 1



majority of the past several years. The flexibility allows them to apply this limited resource to their best agricultural lands.

When I was with the Tumalo Irrigation District in the 1980s, our biggest problem was a backlog of transfers. If I remember correctly, there were over 2,000 transfers alone in the backlog for Central Oregon only. The watermaster's records--and Bruce Estes can testify to this as he was the watermaster during part of that period--did not necessarily reflect the current water use because prior transfers and current transfers were not recorded as applicable on the land. Realtors, financiers and other always came to the district to evidence water rights. We finally developed a form and fee for that service because we were asked so often.

This problem led to Central Oregon people sitting down in Senator Bryant's law office in Bend and coming up with a solution. Those people included some of the district managers, Bob Main the now Regional Manager for the department, and myself and others. We interfaced with Bruce Estes who was then the administration of the watermasters.

#### HB 3111

We came up with what is commonly known as the "3111" remapping of irrigation districts. As a result approximately 40 petitions have been filed with Water Resources Department to map the current use location of more than 1/3 of the state's water within various districts.

The districts, for the most part, hired flyovers of irrigated lands and then had engineering specialists map the water rights in a computer system. Full legal descriptions, by tax lot, and by the state's existing system of 1/4 1/4 sections, were compiled to match the maps. Bruce Estes will relate to you the degree of specificity of the maps.

These petitions are better records than the department has ever had for districts who hold 1/2 the water rights in the state.

#### HB 2191

The intended next step was to provide other tools that would play off the base of HB 3111. HB 2191, enacted in 1991, allows the following:

- 1) Rotation annually of water rights within the district on the basis of providing a record of proposed use to the department prior to the irrigation season; but, water must be returned to the original location once in each 5 year period.
- 2) The ability for districts to do their own transfers, without a certified water right examiner, because most districts have staff on hand who can do the mapping and surveying, or can acquire contracted expertise.
- 3) The ability for districts to move water rights after the 4th year of non-use with full appeal procedures for the users. The user is warned that the fifth year of non-use is approaching, and at that time the water will be moved

to other irrigable lands. This protects the districts assessment base and the rights of other users.

While rotation plans can occur today, but the other two tools cannot be used because at the last moment of the '91 Legislature someone threw in the requirement to have a conservation plan approved by the Water Resources Commission and in the implementation stage before tools 2 and 3 could be used. The Commission did not adopt rules for districts to submit plans until the fall of 1994. Therefore no one has been able to access this program for the last 3 year period. Now we are still caught in a bind as we have federal rules not yet published to comply with, if they are adopted before 1996, and different requirements at the state level.

The 3111 petitions have been submitted since mid-1993, but none have received a final order. We will be approaching 2 years since submittal and district transfers are stacking up again.

Therefore we propose a permanent 3111 process as a solution. It has worked well in other states and it can work in Oregon.

The other option would be a HB 2191 process of rotation which does not require the water right returning to one particular location in each 5 year period.

There is no intent of injury to water right holders outside the district and we are willing to provide a process that meets that requirement.

Jan Boettcher  
Executive Director

MEMO



**OREGON WATER  
RESOURCES  
CONGRESS**

TO: Chair Jenson  
Members of the House Water Committee

FROM: Kristina McNitt  
on behalf of the Oregon Water Resources Congress

RE: HB 3281— District Temporary Transfers & Pilot Project

April 17, 2003

For the record, my name is Kristina McNitt and I am representing the Oregon Water Resources Congress. Joining me this evening are Mr. Jay Chamberlin from the Owyhee Irrigation District in Nyssa Oregon (Malheur County) and Mr. Stephen Shrophire from the firm Jordan & Schrader.

HB 3282 was introduced by Representative Butler at the request of the Oregon Water Resources Congress and is one of three priorities for the Congress this session.

Amendments to HB 3282 establish a pilot program for 3 irrigation districts, which would provide flexibility for district managers to manage the water within their respective irrigation districts. Under this program, the managers will be able to move the water within the district to ensure the most effective beneficial use of the water so as to best serve the water user farmers within the districts. These three districts must meet six criteria:

1. have defined state irrigation district boundaries;
2. have a management structure to ensure that water is applied only where water use is authorized under this section of the statute;
3. the total irrigated area in an one irrigation season does not exceed the maximum acres allowed to be irrigated under the originating water right;
4. have full and accurate measurement of water diverted;
5. have available a accurate map identifying the location of authorized use (by priority date) for watermaster review upon request; and
6. have on file statements by any owners affected by the water right change indicating that they agree to the change.

These criteria are intended to ensure that the participating districts maintain control of the water and know where the water is being used at all times so that farmer patrons can rely on the water they are to receive and non-district users of water from the same source will not incur injury. Further, these criteria ensure the district manager of each participating district can and will be held accountable for meeting the statutory requirements and the terms of the water rights held or managed by their respective district.

The three districts initially selected to participate in this program, Owyhee Irrigation District, Talent Irrigation District, and Tualatin Valley Irrigation District, represent diversity in size, location and type of operation of irrigation districts. This diversity will provide a basis for the Water Resources Department, the Legislature, and irrigation districts in Oregon to evaluate the value of this type of water management for application elsewhere in Oregon.

x (503) 371-4926  
Email [owrc@owrc.org](mailto:owrc@owrc.org)  
Web Page <http://www.owrc.org>

1201 Court St. NE, Suite 303  
Salem, OR 97301-4188  
Phone (503) 363-0121

Promoting the development, control, conservation and utilization of land and water resources of the State of Oregon since 1912

The remaining provisions in HB 3282 allow an irrigation district manager to make temporary transfers of water rights managed by the district paralleling those that an individual can make under the temporary transfer statutes in Oregon. These temporary transfers cannot be used to expand the acreage irrigated by the district and are subject to the requirement that the transfer not injury the rights of any other water right holder in the system. The temporary transfers are for one irrigation season only, after which the right reverts to the original conditions. These provisions simply allow the irrigation district manager to better manage the water rights to better serve the water users in the district and enable them to use their water in the best manner to produce the best crops given the soil, weather and water conditions that season.

Thank you for your consideration of HB 3282. Mr. Chamberlin is here tonight from the opposite side of the state to share with you why HB 3282 is so important to his farmers in Eastern Oregon. Following his presentation will be Mr. Shropshire. I hope we can shed light on this legislation and any questions the Committee may have. Thank you.