

C. FOR WATER USERS FOR CONSECUTIVE YEARS OF NON-USE (TRANSFER OF IRRIGATION WATER FOR NON-USE)

ORS Chapter 540 provides that after five successive years of failure to beneficially apply and use water pursuant to water rights, said water rights are presumed forfeited. To avoid the loss of water rights to the District, the District is adopting a policy to comply with ORS 540 to allow the District to transfer the water to other irrigable land within District boundaries, and thus avoid loss of the water rights to the District.

After determining that for a period of four successive years there has been a failure to beneficially use the water appurtenant to the property, the Board of Directors of the District shall:

1. At the regular October board meeting, direct the Manager to send a written notice to the user and any security interest holder of record that:
 - A. The user may be able to file a request with the Water Resources Department for a transfer under OAR Chapter 690, Division 15; or
 - B. The user may be able to file a request with the Water Resources Department for a transfer to an instream water right under the provisions of OAR 690-77-070 and 690-77-075; or
 - C. If the user fails to complete a transfer under (a) or (b) of this section, and does not use the water for a fifth successive year, the District may petition the Director for approval of a change in the place of use of the water pursuant to ORS 540.572 to 540.578 and these rules.
2. The Manager shall provide a copy of each notice sent to a user to the Department within 30 days of the mailing date of the notice.
3. At the October board meeting the following year, the Board of Directors shall review and determine whether or not the water user has beneficially used the water appurtenant to the land so as to avoid forfeiture. Upon a determination that the water user has failed to beneficially use the water appurtenant to the land, the Board shall direct the Manager to send a notice to the water user and any security interest holder of record of the land whose right of record would be transferred, informing them that the District wishes to transfer the use of water to other irrigable land within the District. The notice shall be sent to the last known address of the water user with a return receipt requested. The notice shall include:
 - A. A statement advising the user that the District has determined that the user's land is no longer irrigated or susceptible of irrigation and that the District intends to petition, under OAR 690-21-070.
 - B. A statement advising the user that the user has 30 days from the mailing date of the notice to submit a written objection to the proposed petition to the District.
 - C. A general description of the land upon which the water right is of record.
 - D. The number of acres of water right for which the user is charged within each tax lot which the District intends to include in its petition under OAR 690-21-070.
 - E. A description of the type of use described by the water right of record.

- F. A list with name and address of security interest holders of record.
 - G. A request for confirmation that the information in the notice is correct.
 - H. Advice to the user that the user shall advise the District within said 30-day period if the non-use would be rebuttable as provided under ORS 540.610.
4. If the District receives a written objection with 30 days after mailing of the notice, the District Manager shall attempt to resolve the matter with the user. If the user's objections cannot be resolved by the Manager, a hearing shall be held before the Board of Directors immediately following the regular December board meeting, or at such other time set by the Board of Directors, who shall make a determination whether to proceed with the petition to the Water Resources Commission. If no written objections are received by the District within 30 days after mailing of the notice for following resolution or hearing, the District shall petition the Water Resources Commission for approval of the transfer under ORS 540.574 and pursuant to OAR 690-21-140 and OAR 690-21-160.