

**OWRD
Final Proposed Rules
October 22, 2004**

**WATER RESOURCES DEPARTMENT
DIVISION 18
ALLOCATION OF CONSERVED WATER**

690-018-0010

Purpose and Applicability

(1) These rules describe the voluntary program under which a water right holder may benefit from ~~implementation of conservation measures~~ an allocation of conserved water. Under the program, a portion of any water conserved may be used on additional lands, be put to a different use, or be leased or sold to another user.

(2) This program is intended to promote the conservation of water, maximize beneficial use and enhance streamflows pursuant to the statutory authority in ORS 537.455 to 537.500 and 540.510 (2) and (3).

(3) These rules establish ~~a new~~ the process to for review and ~~evaluate~~ evaluation of the merits and impacts of applications for allocation of conserved water. After a sufficient number of applications are submitted, these rules shall be reviewed and revised, as necessary, to further promote the allocation of conserved water and to provide criteria for determining requirements for mitigation and the establishment of instream water rights.

(4) The rules in this Division apply to applications submitted after (effective date).

Stat. Auth.: ORS 537.455 - ORS 537.500 & ORS 540.510

Stats. Implemented: ORS 536, ORS 537 & ORS 540

Hist.: WRD 19-1988, f. & cert. ef. 11-4-88; WRD 15-1994, f. & cert. ef. 12-23-94

690-018-0012

Allocation Formula and Process

(1) Pursuant to ORS 537.470(3), after determining the quantity of conserved water, if any, required to mitigate the effects on other water rights, the Commission shall allocate 25 percent of the remaining conserved water to the state and 75 percent to the applicant, unless the applicant proposes a higher allocation to the state or more than 25 percent of the funds used to finance the conservation measures comes from federal or state public sources. If more than 25 percent of the funds used to finance the conservation measures comes from federal or state public sources and is not subject to repayment, the Commission shall allocate to the state a percentage equal to the percentage of public funds used to finance the conservation measures and allocate to the applicant a percentage equal to the percentage of other funds used to finance the conservation measures. In no event, however, shall the applicant receive less than 25 percent of the remaining conserved water unless the applicant proposes a higher allocation to the state.

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1 (2) A water right affected by an allocation of conserved water under this program shall retain its
2 original priority date. The priority date of the conserved water rights shall be either the same as
3 or one minute after that of the original right.

4 (3) Many water users have expressed concern about the effects of an allocation of conserved
5 water on the continued use of water under the original water right. These rules allow for a period
6 of up to five years after implementation of a conservation project to confirm that the project is
7 performing as expected. This will allow water right holders to better determine the adequacy of
8 the quantity of water allocated to the original right. However, no out-of-stream uses may be
9 made of the conserved water until after final completion of the project and issuance of the new
10 certificates.

11 Stat. Auth.: ORS 537.455 - ORS 537.500 & ORS 540.510

12 Stats. Implemented: ORS 537 & ORS 540

13 Hist.: WRD 15-1994, f. & cert. ef. 12-23-94

14 **690-018-0014**

15 **Timing of Applications**

16 (1) Applications for allocation of conserved water should be submitted prior to implementation
17 of conservation measures. Project sponsors are encouraged to consult with the Department and
18 other natural resource agencies and to submit applications early in the process of project
19 development. The Department will work with applicants to identify and resolve any concerns of
20 local water right holders, governmental entities, or other organizations.

21 (2) Notwithstanding section (1) of this rule, applications for allocation of conserved water may
22 be submitted for projects in which all or a significant portion of the project costs have already
23 been incurred. However, these project sponsors must consult with other water right holders in the
24 area, governmental entities, and other organizations who have asked to be consulted prior to
25 submittal of an application to identify and resolve any concerns regarding the application.

26 ~~Conserved water shall not be allocated for projects pursuant to an application under these rules if~~
27 ~~the application is filed more than five years after the conservation measure was implemented.~~
28 ~~constructed before November 4, 1993.~~

29 Stat. Auth.: ORS 537.455 - ORS 537.500 & ORS 540.510

30 Stats. Implemented: ORS 537 & ORS 540

31 Hist.: WRD 15-1994, f. & cert. ef. 12-23-94

32 **690-018-0020**

33 **Definitions**

34 The following definitions apply in OAR Chapter 690, Division 18 and to any applications
35 submitted or certificates issued under these rules.

36 (1) "Affected local government" means any local government, as defined in OAR 690-005-0015,
37 within whose jurisdiction water is or would be diverted, conveyed, or used under a proposed or
38 approved order allocating conserved water.

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1 (2) "Commission" means the Water Resources Commission.

2 (3) "Conservation" means the reduction of the amount of water diverted to satisfy an existing
3 beneficial use achieved either by improving the technology or method for diverting, transporting,
4 applying or recovering the water or by implementing other approved conservation measures.

5 (4) "Conserved Water" means that amount of water that results from conservation measures,
6 measured as the difference between:

7 (a) The smaller of the amount stated on the water right or the maximum amount of water that can
8 be diverted using the existing facilities; and

9 (b) The amount of water needed after implementation of conservation measures to meet the
10 beneficial use under the water right certificate.

11 (5) "Conserved Water Right" means any water right established by allocation of a quantity of
12 water, ~~which that~~ results from the savings of a conservation measure pursuant to OAR 690-018-
13 0010 to 690-018-0090.

14 (6) "Department" means the Water Resources Department.

15 (7) "Director" means the Water Resources Director.

16 (8) "Instream Water Right" means a water right held in trust by the Water Resources Department
17 for the benefit of the people of the State of Oregon to maintain water instream for public use.

18 (9) "Project costs" means the estimated total projected expenditures and in-kind contributions for
19 a conservation project including but not limited to the costs of engineering, constructing, and
20 monitoring the project and the present value of the incremental change in costs for up to 20 years
21 of operations and maintenance ~~which that~~ would not be incurred or realized in the absence of the
22 project.

23 (10) "Water use subject to transfer" means a water use established by:

24 (a) An adjudication under ORS Chapter 539 as evidenced by a court decree;

25 (b) A water right certificate;

26 (c) A water use permit for which a request for issuance of a water right certificate under ORS
27 537.250 has been received and approved by the Water Resources Commission under ORS
28 537.250; or

29 (d) A transfer application for which an order approving the change has been issued under ORS
30 540.530 and for which proper proof of completion of the change has been filed with the Water
31 Resources Commission.

32 Stat. Auth.: ORS 537.455 - ORS 537.500 & ORS 540.510

33 Stats. Implemented: ORS 197, ORS 536, ORS 537 & ORS 540

34 Hist.: WRD 19-1988, f. & cert. ef. 11-4-88; WRD 12-1990, f. & cert. ef. 8-8-90; WRD 15-1994,
35 f. & cert. ef. 12-23-94

36
37 690-018-0025

38 District Requirements

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1
2 (1) Any district intending to seek allocations of conserved water pursuant to
3 ORS 537.455 to 537.500 shall, after providing public notice and holding a public meeting, adopt
4 a policy that at a minimum shall:

5 (a) describe how water saved by conservation measures will be allocated by the district;

6 (b) describe how the district will address the allocation of conserved water percentages under
7 ORS 537.470;

8 (c) provide district patrons the opportunity to fund a share of the conservation project that is
9 proportionate to the patron's share of the water rights involved in the allocation of conserved
10 water and to receive a corresponding share of the conserved water;

11 (d) provide district patrons an opportunity to petition for a vote by all district patrons on the
12 policy pursuant to applicable statutes governing elections or recalls in the subject district; and

13 (e) provide district patrons an opportunity to appeal a proposed district conservation project to
14 the district board of directors for failure to follow the district's policy.

15
16 (2) The adopted policy under section (1) of this rule shall be reviewed and updated by the
17 board of directors of the district at least once every five years and may be reviewed and updated
18 more frequently at the discretion of the board of directors of the district. Review and update of
19 the adopted policy must comply with the process and provisions under section (1) of this rule.

20
21 (3) This rule applies only to applications for allocations of conserved water filed by a district[s]
22 after x date (the effective date of the rule). This rule does not apply to applications for
23 allocations of conserved water filed by individuals, including district patrons.

24
25 (4) For the purposes of this rule, "district" means an irrigation district organized under ORS
26 Chapter 545 or a water control district organized under ORS Chapter 553.

27
28 **690-018-0040**

29 **Application Requirements**

30 Applicants for allocation of conserved water shall provide to the Department the information
31 described in this rule in substantially the same order as listed. The information shall include:

32 (1) The name of the applicant(s), mailing address(es) and telephone number(s);

33 (2) The certificate, permit, or transfer numbers or the name of the decree, if appropriate, of any
34 each water rights use subject to transfer that will be modified held by the applicants which will
35 be affected by the proposed allocation of conserved water; conservation project and the names
36 appearing on the certificates;

37 (3) The date of priority and source of water for each water right identified in section (2) of this
38 rule;

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1 (4) The amount of water ~~which that~~ may be used under the original rights expressed as the lesser
2 of:

3 ~~(a) The maximum rate and annual volume (duty) of water which that may be diverted as stated~~
4 ~~on the water use subject to transfer rights; or~~

5 ~~(b) The maximum amount of water that can be diverted using the existing facilities stated as a~~
6 ~~rate of diversion;~~

7 (5) A description of the diversion facilities in sufficient detail for the Department to determine
8 the capacity of the system. The description shall include:

9 (a) For a project that has not been completed, a description of the existing diversion facilities,
10 including diversion structures, pumps, conveyance facilities, **an estimate of the amount of**
11 **water that can be diverted at the existing facilities stated as a rate of diversion, and**
12 application methods that will be affected by the proposed project; or

13 (b) For a project that has already been completed, a description of the diversion facilities before
14 the conservation measure was implemented, including diversion structures, pumps, conveyance
15 facilities, the amount of water that was diverted at the facilities **stated as a rate of diversion**
16 before the conservation measure was implemented, and application methods that will be affected
17 by the project.

18 ~~A description of the present system including diversion structures, pumps, conveyance facilities,~~
19 ~~and application methods which will be affected by the proposed project in sufficient detail for~~
20 ~~the Department to confirm the calculation of the capacity of the system.~~

21 (6) A description of the proposed changes to be made in the physical system and operations that
22 will result in the conservation of water.

23 (7) The amount of water needed to meet the beneficial use currently authorized ~~the applicants~~
24 ~~will need~~ after implementation of the conservation measures described as a maximum rate of
25 ~~flow and annual seasonal~~ volume (duty) of water;

26 (8) The amount of water conserved by implementing the conservation measure calculated as the
27 amount of water identified in section (4) or section (5) whichever is less, minus the amount of
28 water identified in section (7), expressed as a maximum rate and annual volume (duty) of water;

29 ~~(9)~~ The proposed percentages and quantities of conserved water to be allocated to the applicants
30 and to the state and the proposed use of any conserved water allocated to the applicant;

31 (10) The applicant's choice of priority date for the conserved water, being either the same as or
32 one minute after that of the original right.

33 ~~(119) A schedule which identifies when the applicants intend to:~~ For a project that has not been
34 completed, the date on which the applicant intends to:

35 (a) Begin construction of the conservation project;

36 (b) Complete construction and file notice of project completion pursuant to OAR 690-018-
37 0062(1); and

38 (c) Request that the allocation be finalized pursuant to OAR 690-018-0062(3).

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- 1 (12) For a project that has already been completed:
2 (a) Evidence that the measure was implemented within five years prior to the date of filing the
3 application; and
4 ~~(e)~~ (b) The date on which the applicant intends to request that the allocation be finalized
5 pursuant to OAR 690-018-0062(3).
6 ~~(13)~~ (14) A description of any expected effects of the proposed allocation of conserved water on
7 other appropriators ~~which that~~ identifies what presently happens to the water ~~which that~~ the
8 applicant is proposing to conserve;
9 ~~(14)~~ (15) A description of any mitigation or other measures planned to avoid harm to other water
10 rights;
11 ~~(15)~~ (16) A description of the intended use and boundaries of the expected area within which the
12 diversion structures and places of use of the applicants' conserved water right would be located;
13 ~~(16)~~ (17) To the extent possible, identification of the stream reach for which the conserved water
14 should be managed under an instream water right and any reservations or dedications of the
15 water to instream use;
16 ~~(17)~~ (18) A map with sufficient detail to locate and describe the facilities and areas affected by the
17 conservation measures;
18 ~~(18)~~ (19) Identification of any federal or state public sources of project funds and, if federal or state
19 public funds ~~which that~~ are not subject to repayment will be used in the project, information
20 showing the estimated project costs and anticipated sources of funds for the project including:
21 (a) The total cost for project engineering and construction;
22 (b) The present value of any incremental changes in the costs of operations and maintenance
23 ~~which that~~ are directly attributable to the project ~~which that~~ would not be incurred or realized in
24 the absence of the project;
25 (c) The amount of funding and the value of any in-kind contributions for project engineering and
26 construction and for any incremental changes in the costs of operations and maintenance to be
27 provided from federal or state public funds ~~which that~~ are not subject to repayment; and
28 (d) The amount of funding and the value of any in-kind contributions for project engineering and
29 construction and for any incremental change since costs of operations and maintenance to be
30 provided from other funds.
31 ~~(19)~~ (20) If construction of the project has begun or been completed and if more than 25 percent of
32 the project costs have been expended before applying for allocation of conserved water, evidence
33 that the applicant has attempted to identify and resolve the concerns of water right holders in the
34 area, governmental entities, or other organizations who have asked to be consulted regarding the
35 allocation of conserved water;
36 ~~(20)~~ (21) A letter showing irrigation district or water control district approval if the conservation
37 project is within the boundaries of the district;

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1 (21) For applications submitted by irrigation districts or water controls districts, evidence of an
2 adopted policy consistent with the requirements of OAR 690-018-0030.

3 ~~(2248)~~ Land use information outlined in the Department's Land Use Planning Procedures
4 Guide; and

5 ~~(23249)~~ Other information the Department or Commission deems necessary and appropriate to
6 aid in the evaluation of the application.

7 (243) The appropriate fee as required under ORS 536.050.

8 (254) The Director shall waive the application fee based on the percent of conserved water
9 allocated to the state for instream use, not to exceed 50 percent of the application fee, if the
10 instream allocation is:

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

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

14 (c) Determined and endorsed in writing by Oregon Department of Fish and Wildlife as a change
15 that will result in a net benefit to fish and wildlife habitat.

16
17 Stat. Auth.: ORS 537.455 - ORS 537.500 & ORS 540.510

18 Stats. Implemented: ORS 197, ORS 536, ORS 537 & ORS 540

19 Hist.: WRD 19-1988, f. & cert. ef. 11-4-88; WRD 3-1990, f. & cert. ef. 2-28-90; WRD 12-1990,
20 f. & cert. ef. 8-8-90; WRD 15-1994, f. & cert. ef. 12-23-94

21 **690-018-0050**

22 **Processing a Conservation Application**

23 (1) When the Department receives an application for allocation of conserved water, the Director
24 shall provide public notice of the application through:

25 (a) Publication in a newspaper having general circulation in the area in which the water rights
26 addressed in the application are located, for a period of at least three weeks and not less than one
27 publication each week; and

28 (b) Concurrent with the date of first publication pursuant to subsection (a) of this section, mailing
29 to individuals, organizations and agencies including the Indian tribes and local government
30 planning departments on the Department's weekly mailing list, irrigation districts in the area, and
31 any other parties ~~which~~ that the Director determines should be notified.

32 (2) As provided in ORS 540.520(5), the cost of the publication in a newspaper shall be paid by
33 the applicant. At the discretion of the Director, the applicant may satisfy this requirement by
34 arranging for the publication of the notice prepared by the Department in a newspaper that meets
35 the criteria in subsection (1)(a) and providing the Department with an affidavit of publication or
36 paying the costs of the publication in advance to the Department.

37 ~~(32)~~ Any person may review and comment on the application for allocation of conserved water
38 by the deadline specified in the notice. The deadline specified in the notice shall provide at least

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- 1 20 days after the date of last publication pursuant to subsection (1)(a) of this rule for the
2 submittal of comments.
- 3 ~~(43)~~ The Department shall review the application and consider any comments received under
4 section ~~(3)~~ ~~(2)~~ of this rule to determine:
- 5 (a) If the proposed allocation of conserved water will result in a reduced diversion for the uses
6 allowed under the original water rights;
- 7 (b) If the proposed allocation of conserved water will harm existing water rights;
- 8 (c) If the application is consistent with the requirements established in OAR 690-005-0045
9 (Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans);
- 10 (d) The quantity of conserved water needed to mitigate for harm to existing water rights and the
11 quantity of conserved water ~~which~~ ~~that~~ may be allocated;
- 12 (e) The new rate and duty for the existing water rights held by the applicant and for any out-of-
13 stream use of the conserved water rights;
- 14 (f) In consultation with the Departments of Fish and Wildlife, Environmental Quality and Parks
15 and Recreation, if conserved water is needed to support instream uses;
- 16 (g) The amounts of water to be allocated to the applicant and, if needed, to the state for an
17 instream water right based on the project costs and the amount of non-reimbursable public funds
18 to be used for the project consistent with ORS 537.470(3);
- 19 (h) The areas within which the conserved water may be used for out-of-stream purposes and the
20 stream reaches to which the conserved water may be dedicated for instream purposes;
- 21 (i) The periods to be allowed for the applicants to file a notice of completion of the conservation
22 measures and to request that the allocation be finalized pursuant to OAR 690-0180-0062. The
23 time allowed between filing the notice of completion of the conservation measures and
24 requesting that the allocation be finalized shall not exceed five years; and
- 25 (j) Any other conditions or limitations to be included in the new water rights, including
26 conditions or limitations to prevent or mitigate for harm to existing water rights.
- 27 (54) The Department shall provide notice of the determination under section ~~(4)~~ ~~(3)~~ of this rule to
28 the applicant and to each person who commented on the application for allocation of conserved
29 water in response to the public notice under section ~~(3)~~ ~~(2)~~ of this rule.
- 30 ~~(65)~~ If a protest to the proposed allocation of conserved water is received by the Department
31 within 60 days of the mailing of the determination provided pursuant to section ~~(5)~~ ~~(4)~~ of this
32 rule, the Director may work with the applicant and any protestant to determine whether the issues
33 can be resolved through mutually agreeable conditions, or by modifying the application
- 34 ~~(76)~~ If no protests are received or if the protests are resolved pursuant to section ~~(6)~~ ~~(5)~~ of this
35 rule, the Director shall issue an order consistent with the determination and including any
36 agreed-upon conditions. An order approving an application shall provide for issuance of a
37 certificate superseding the original certificate at the reduced rate and duty and for allocation of

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1 the conserved water, contingent upon completion of the proposed project and satisfactory proof
2 of use of the conserved water pursuant to OAR 690-018-0062.

3 ~~(87)~~ If protests are received raising issues ~~which that~~ cannot be resolved pursuant to section (6)
4 ~~(5)~~ of this rule, the Director shall present the application, all protests and a recommendation for
5 action to the Commission for review and action.

6 ~~(98)~~ The Commission shall examine the application, the protests and the Director's
7 recommendation. If the Commission finds the allocation of conserved water is likely to injure
8 existing water rights or is otherwise inconsistent with these rules, the Commission may direct the
9 Department to hold a contested case hearing on the application pursuant to ORS 183.413 and
10 OAR 690, Divisions 1 and 2 or to resume attempts to resolve the disputed issues. If the
11 Commission finds the allocation of conserved water is not likely to injure existing rights and is
12 otherwise consistent with these rules, the Commission may authorize the Director to issue an
13 order approving the application.

14 ~~(109)~~ In the event of a land use dispute, as defined in OAR 690-005-0015 (Definitions), the
15 Director shall follow resolution procedures provided in OAR 690-005-0040 (Resolution of Land
16 Use Disputes).

17 Stat. Auth.: ORS 537.455 - ORS 537.500 & ORS 540.510

18 Stats. Implemented: ORS 197, ORS 536.025, ORS 536.027, ORS 537 & ORS 540

19 Hist.: WRD 19-1988, f. & cert. ef. 11-4-88; WRD 3-1990, f. & cert. ef. 2-28-90; WRD 12-1990,
20 f. & cert. ef. 8-8-90; WRD 5-1991, f. & cert. ef. 4-26-91; WRD 15-1994, f. & cert. ef. 12-23-94

21 **690-018-0062**

22 **Completion of Conservation Project**

23 (1) If the order approving the application for allocation of conserved water allows a time period
24 for finalizing the allocations water prior to certification, upon notice from the applicant that the
25 project has been completed, the Director shall issue an order:

26 (a) Canceling the water right held by the applicants ~~which that~~ are modified by the allocation of
27 conserved water;

28 (b) Allowing the continued use of water for the purposes and at the locations described in the
29 original water right certificates at the rate and duty prescribed under OAR 690-018-0050(4)

30 ~~(3)~~(e); and

31 (c) Allowing the use and management of the conserved water as a dedication of the water
32 instream.

33 (2) Consistent with the order approving the allocation of conserved water and at the request of
34 the applicants within the period allowed under the order under OAR 690-018-0050(4)~~(3)~~(i), the
35 Director may increase the amount of water to be used pursuant to subsection (1)(b) of this rule
36 and decrease by a like amount the conserved water to be allocated pursuant to OAR 690-018-
37 0050(4)~~(3)~~(d) if the Director finds that the changes are necessary because the conservation
38 project has not performed as expected and that the applicants' use of additional water would not

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1 be wasteful. A request for additional water submitted under this section shall include sufficient
2 information to demonstrate that:

3 (a) The project is less effective than was expected when the order approving the allocation of
4 conserved water was issued;

5 (b) The lack of performance is not caused by the applicants' failure to maintain the project; and

6 (c) The amount of water remaining for use under the original water rights is insufficient to satisfy
7 the beneficial uses.

8 (3) Prior to the expiration of the time allowed under OAR 690-018-0050(4)(3)(i), the applicant
9 may request that an allocation of conserved water be finalized. The request shall include:

10 (a) If all or part of the applicants' portion of the conserved water is to be used for an out-of-
11 stream use at an identified location, the following information:

12 (A) The name and address of the person using the water;

13 (B) A description of the type of beneficial use of the water;

14 (C) A legal description of the place of use; and

15 (D) A map that meets the standards in OAR 690-310-0050011-0070; and

16 (b) If all or part of the applicants' portion of the conserved water is to be leased, dedicated or
17 temporarily reserved instream, a statement identifying the quantity of water to be managed as an
18 instream water right.

19 (4) Upon receipt of a request that an allocation of conserved water be finalized or upon the
20 expiration of the time allowed under OAR 690-018-0050(4)(3)(i), the Director shall issue:

21 (a) A superseding certificate as provided for in the order approving the allocation of conserved
22 water;

23 (b) A certificate for an instream water right for the state's portion of the conserved water if
24 required under OAR 690-018-0050(4)(3)(g); and

25 (c) An order allowing:

26 (A) The use of any portion of the conserved water allocated to the applicants, at the location and
27 for the type of use identified pursuant to subsection (3)(a) of this rule;

28 (B) The use and management as an instream water right of any conserved water ~~which that is~~
29 being leased, dedicated or temporarily reserved instream.

30 Stat. Auth.: ORS 537.455 - ORS 537.500 & ORS 540.510

31 Stats. Implemented: ORS 537 & ORS 540

32 Hist.: WRD 15-1994, f. & cert. ef. 12-23-94

33 **690-018-0080**

34 **Management of Conserved Water**

35 (1) The Department shall manage any conserved water allocated to instream use under the rules
36 established to implement ORS 537.332 to 537.360 pertaining to instream water rights.

37 (2) A conserved water right reserved instream for future out of stream use shall be managed to
38 carry the water through the stream reach described in the order issued pursuant to OAR 690-018-

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1 0050. Any conserved water reserved instream shall maintain its priority date and will not be
2 subject to abandonment under ORS 540.610 to 540.670.

3 Stat. Auth.: ORS 537.455 - ORS 537.500 & ORS 540.510

4 Stats. Implemented: ORS 193, ORS 536, ORS 537 & ORS 540

5 Hist.: WRD 19-1988, f. & cert. ef. 11-4-88

6 **690-018-0090**

7 **Change in Use of Conserved Water**

8 (1) Any person or agency entitled to the use of conserved water shall notify the Director of any
9 change in the type of use, place of use or point of diversion. The notice must be submitted 60
10 days before the actual change and must include the information requested in OAR 690-018-
11 0062(3)(a).

12 (2) The Director shall approve a change in the type of use, place of use, or point of diversion for
13 conserved water if:

14 (a) The proposed new use is within the area described under OAR 690-018-0050~~(4)~~(3)(h);

15 (b) The proposed change would not constitute an expansion of the right; and

16 (c) The approval is consistent with OAR 690-005-0045 (Standards for Goal Compliance and
17 Compatibility with Acknowledged Comprehensive Plans).

18 (3) A change in the dispensation of the use of a conserved water right may be initiated 60 days
19 after the notice prescribed in section (1) of this rule if the Director takes no action within that
20 period.

21 (4) When a right to the use of conserved water is sold or given to an agency or political
22 subdivision of the state or to a person:

23 (a) The right shall become appurtenant to the premises upon which use is made;

24 (b) A certificate of water right shall be issued upon satisfactory proof of use; and

25 (c) Unless dedicated to instream use, the right shall be subject to the provisions of ORS 540.510
26 to 540.539, 540.572 to 540.578, and 540.610 to 540.670.

27 (5) Upon approval of a change in the use or point of diversion proposed under this rule, the
28 Director shall issue a new order to allow the new use of the conserved water.

29 (6) Any changes in the type of use, place of use, or point of diversion ~~which~~that are not provided
30 for under this rule shall only be made after compliance with the transfer rules in OAR 690,
31 Division ~~380.15~~.

32 Stat. Auth.: ORS 537.455 - ORS 537.500 & ORS 540.510

33 Stats. Implemented: ORS 193, ORS 536, ORS 537 & ORS 540

34 Hist.: WRD 19-1988, f. & cert. ef. 11-4-88; WRD 12-1990, f. & cert. ef. 8-8-90; WRD 15-1994,
35 f. & cert. ef. 12-23-94

36 Underlined text (example) is proposed new text.

37 Text with strikethrough (~~example~~) is proposed for deletion.

Bold text (**example**) is text proposed to be added to the 7/23/04 hearing draft rules

Text in brackets [example] is proposed to be deleted from the 7/23/04 hearing draft rules