

Application for Water Right Transfer Evidence of Use Affidavit



Oregon Water Resources Department
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Use a separate affidavit for each water right included in the transfer application.

NOTE: Supporting documentation must be attached.

State of Oregon)
County of _____) ss
_____)

I, _____, in my capacity as _____,
mailing address _____,
telephone no.(s) _____, e-mail address _____,
being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on:

Check only the box that applies:

☐ Personal observation. Explain the specific grounds for your knowledge:

☐ Professional expertise. Explain the specific grounds for your knowledge:

2. I attest that I have read and understand the terms and conditions of water use under Certificate #_____, and that I have attached copies of documents demonstrating beneficial water use consistent with those terms and conditions (i.e., documentation showing compliance with the terms and conditions of the right).

Examples of documentation demonstrating compliance with the terms and conditions include, but are not limited to:

- Information showing that a required water meter was installed
- Copies of submitted static water level measurement reports (for groundwater sources)
- Copies of submitted annual water use reports
- Written confirmation from Oregon Department of Fish & Wildlife (ODFW) documenting installation of required fish screen(s)

3. I attest that water was beneficially used under Certificate #_____ for the following purpose (e.g., crops, pasture, commercial, industrial, etc.):

4. I attest that water from the authorized source was diverted/appropriated, conveyed, and applied to the authorized place of use under Certificate # _____ through the current water delivery system used to apply water or the system that was in place at some point within the five years prior to submittal of this Transfer Application.

5. I attest that the following is a description of the water delivery system attested to in Item #4 above. Please check all applicable boxes below and include information that describes the type, model, dimensions (size/diameter, length, etc.) and delivery capacity, in cubic feet per second (cfs) or gallons per minute (gpm):

- ☐ Pump(s) in stream:
- ☐ Pump(s) in reservoir/pond:
- ☐ Pump(s) in well(s):
- ☐ Headgate in stream/canal:
- ☐ Headgate in reservoir pond:
- ☐ Other (describe also include its general location in the description):
-
- ☐ Gravity Ditch:
- ☐ Pipeline:
- ☐ Sprinklers:
- ☐ Other (also include its general location in the description):

6. Can you attest to beneficial water use under Certificate # _____ consistent with the terms and conditions of the water right, during the past five years on the **entire** place of use or a **portion** of the place of use?

- ☐ No [skip to Question 7]
- ☐ Yes, my knowledge is specific to only the **portion** of the place use described below: [complete **Table 1** below, then go to Question 8]
- ☐ Yes, water was used on the **entire** place of use [skip to Question 8]

Table 1. Description of Water Use

Certificate #	Township		Range		Mer	Sec	¼	¼	Gov't Lot or DLC	Acres (if applicable)
					WM					
					WM					
					WM					
					WM					
					WM					
					WM					

7. I attest, as indicated under either **Item a.** or **Item b.** below, that:

a. Beneficial water use is evidenced by one of the following:

- ☐ Certificate # _____ confirming beneficial water use to perfect Permit # _____ was issued within the past five years.

NOTE: This cannot be a remaining right certificate.

- ☐ Certificate # _____ confirming completion of a change in place of use, point(s) of diversion/ appropriation, or character of use authorized under Transfer Application #T- _____ was issued within the past five years.

- ☐ Part or all of the water right was leased instream at some point within the last five years. The instream lease number is: _____

NOTE: If the entire right proposed for transfer was not leased, then additional evidence of use is needed for the portion not leased instream.

- ☐ Water has been diverted at the actual current point of diversion for more than 10 years for beneficial use under Certificate # _____ (For Historic POD Transfers).

-OR-

b. Water was not used in the past 5 years, but the water right is not subject to forfeiture and documentation is attached to support the assertion that the presumption of forfeiture for nonuse would be rebutted under ORS 540.610(2) due to the following:

- ☐ Consistent with ORS 540.610(2)(e), the period of nonuse occurred during a period of time within which land was withdrawn from use in accordance with the Federal Conservation Reserve Program.
- ☐ Consistent with ORS 540.610(2)(h), the nonuse occurred during a period of time when I/we was/were using reclaimed water in lieu of using water under the water right.
- ☐ Consistent with ORS 540.610(2)(j), I/we was/were unable to make full beneficial use of the water because water was not available. During this time I/we had a facility capable of handling the full allowed rate and duty, and I/we was/were otherwise ready, willing and able to beneficially use the entire amount of water allowed under the water right.
- ☐ Consistent with ORS 540.610(2)(L), the nonuse occurred during a period of time within which the exercise of the water right was not necessary due to climatic conditions. During this time I/we had a facility capable of handling the full allowed rate and duty, and I/we was/were otherwise ready, willing and able to beneficially use the entire amount of water allowed under the water right.
- ☐ Consistent with ORS 540.610(2)(n), the nonuse of the supplemental water right occurred during a period of time when the primary water right used in conjunction with the supplemental water right was leased as an in-stream water right pursuant to ORS 537.348.
- ☐ Other (please explain and cite the statutory reference under ORS 540.610(2) that applies):

8. I understand that if I do not attach one or more of the documents shown in **Table 2** to support the above statements, my application will be considered incomplete.

NOTE: Table 2 is located on Page 5

Affiant Signature

Printed Name

Date

Signed and sworn to (or affirmed) before me this ____ day of _____, 20____.

Notary Public for Oregon

My Commission Expires: _____

Table 2. Supporting Documentation

Supporting Documents	Examples
A confirming water right certificate that was issued within the last five years. (NOT a remaining right certificate.)	• Copy of a water right certificate confirming the beneficial use of water under a Water Use Permit that shows date of issuance • Copy of a water right certificate confirming completion of a change in place of use, point of diversion/appropriation, or character of use authorized by an approved Water Right Transfer showing issuance date
Records such as Farm Service Agency (FSA) crop reports, irrigation district records, Natural Resources Conservation Service (NRCS) farm management plan, or records of other water suppliers	• District assessment records for water delivered • Crop reports submitted under a federal loan agreement • Beneficial use reports from district • IRS Farm Usage Deduction Report • Agricultural Stabilization Plan • Conservation Reserve Enhancement Program (CREP) Report
Dated satellite imagery, aerial photos or other photographs containing sufficient detail to establish location and date of photograph (i.e., dated aerial photographs)	• Multiple photos can be submitted to show different areas of a water right • If photograph does not print with a “date stamp” or without the source identified, the date of the photograph and source should be added Sources for dated aerial photos: OSU – https://www.oregonexplorer.info OWRD – https://www.oregon.gov/owrd Google Earth – https://earth.google.com/
Approved instream lease establishing beneficial use for instream purposes within the last 5 years	Copy of final order approving an instream lease that shows instream lease number and date of issuance
If water has not been beneficially used in the past 5 years, documentation showing the right is not subject to forfeiture under ORS 540.610. (NOTE: Refer to ORS 540.610(2) for rebuttals to the presumption of forfeiture.)	• Copy of an agreement or contract for the use of reclaimed municipal water • Contract showing the authorized place of use enrolled in the Conservation Reserve Enhancement Program (CREP). • Copy of the Governor’s executive order declaring a drought in the county within which the water right is located
Any other documentation with sufficient detail to support the affidavit attesting to beneficial use during the past 5 years	