

## BENEFICIAL USE WHAT DOES IT MEAN AND WHAT ARE YOUR OPTIONS?

Per Oregon Revised Statutes and Oregon Administrative Rules, a water right holder is required to beneficially use the full water right appurtenant to their lands a minimum of 1 year out of every 5 consecutive years.

A water right is considered beneficially used when something is planted (such as a crop, pasture, yard, or other landscaping), irrigated, and growing. You may plant and grow anything (except weeds) that is non-native to the Central Oregon area and requires irrigation to thrive and grow.

If you have a mapped water right, you must irrigate and beneficially use the water right specifically as the water right is mapped to the ground. If you have an unmapped water right, you must irrigate the amount of land equivalent to the amount of water right you have. For example, if you have 1 acre of irrigation water right, you must irrigate and grow something on 1 acre of land.

If you have an irrigation water right, you may not use that water for dust abatement and get beneficial use credit for using the water. You must have a dust abatement water right to use that water for the purpose of controlling dust.

If a water right holder fails to beneficially use the full water right as required, the State allows the Irrigation District to confiscate the unused portion of water right after 5 consecutive years of nonuse. When the District confiscates a water right, the unused portion is permanently removed from the appurtenant land (without compensation) and placed on another property within the District's boundaries for future use.

If a land owner cannot or does not want to use all or a portion of the water right appurtenant to their land and there is valid evidence of beneficial use of that water right within the last 5 years, there are some alternatives that may be available to the land owner. See the list below for a brief description of each option.

### OPTIONS:

1. **TEMPORARY INSTREAM TRANSFER (INSTREAM LEASE):** The deeded property owner may request to temporarily transfer any portion or all of a water right instream for a 1-year period or 3-year period. When a water right is temporarily transferred instream, this water stays in the Deschutes River to benefit the river rather than being diverted through the District's canals. Because the water is benefiting the river and its aquatic life, the State considers this to be beneficially used, and allows beneficial use credit of the water right just as if it were actually used on the ground it is appurtenant to. When the temporary instream transfer expires, the water right reverts back to the original land it is appurtenant to and the water is once again delivered to the land owner's property. If this option is chosen, the land owner is still responsible for paying their full assessment to the District. There is no monetary compensation for leaving the water right in the river. The State calls this type of transfer an **Instream Lease**. *Requests for an Instream Lease must be submitted to COID no later than February 15<sup>th</sup>.*
2. **TEMPORARY TRANSFER:** A deeded property owner may request a temporary transfer of any portion of their water right for use on other District approved lands for a 1-year period; there is no fee to temporarily transfer water off. When a water right is temporarily transferred to other lands within the District boundaries, the water is not delivered to the land owner's property during the period of temporary transfer; it is delivered to the lands to which it has been temporarily moved to. When the temporary transfer expires the water right reverts back to the original land it is appurtenant to, and the water is once again delivered to the land owner's property. The owner of the receiving lands must pay fees to COID for the use of the water

and COID will credit a portion of those fees to the assessment account of the original property owner. Please contact COID for fee information. The State considers a temporary transfer beneficial use of the water. *Requests for a Temporary Transfer must be submitted to COID no later than February 15<sup>th</sup>.*

3. **SELLING WATER RIGHTS:** The deeded property owner may request to sell a portion or all of their water right to the District or other District approved buyer. If a property owner wishes to sell their water rights, they have the option to sell them to the District for the current market value of the water rights or sell them to a District approved land owner for a price to be negotiated between the buyer and seller. When selling water rights to the District, the seller must pay a transfer fee to the District (currently \$400), which will be deducted from the proceeds of the sale and the District will issue a check to the seller for the balance. If there is a balance owing to the District, the seller must pay the District the balance due. When selling water rights to another party approved by the District, the buyer and seller each pay a \$400 transfer fee to the District (\$800 total fee) and the proceeds of the sale are paid from the buyer to the seller.
4. **OWN LANDS TRANSFER:** The deeded property owner may request to transfer a portion of their water right within their own lands. If a property owner wishes to move a portion of their water right from one area on their land to another area within that same property, they may request a review to determine if there is additional ground to move the water right to. When moving water rights within their own lands, the land owner must pay a transfer fee to the District (currently \$400).
5. **CONFISCATION:** The deeded property owner may choose to have the District confiscate the unused water right at the end of the 5<sup>th</sup> year of nonuse. If the property owner receives the required notice from the District after the 4<sup>th</sup> consecutive year of nonuse, the property owner may choose to do nothing with the unused water right and have the District confiscate it. If the land owner chooses this option, at the end of the 5<sup>th</sup> year of nonuse the unused water right will be removed from the appurtenant land without compensation and placed on another property within the District's boundaries. There is no transfer fee to the deeded property owner to exercise this option.

If you have questions regarding beneficial use, instream leasing, or confiscation, please contact Laura Wollam at 541-504-7577 or [lauraw@coid.org](mailto:lauraw@coid.org).

If you have questions regarding temporary, permanent, or own lands transfers; or selling water rights, please contact Leslie Clark at 541-504-7576 or [lesliec@coid.org](mailto:lesliec@coid.org).