

	<p><b>Owyhee IRRIGATION DISTRICT</b></p> <p><b>Policy 12</b></p> <p><b>Beneficial Use and Confiscation</b></p> <hr/> <p>Date of Revision: 30 January 2018</p>	<p>APPROVED: _____</p> <p>President Board of Directors</p> <p>DATE: _____</p>
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**1. Purpose:**

- A. To explain Oregon Statute 540.610 and what happens if a water user doesn't use their water for at least 1 year out of every 5 consecutive years

**2. Policy:**

- A. Oregon Revised Statute 540.610 and the Oregon Administrative Rules enforcing the Statute require a water right be beneficially used 1 year out of every 5 consecutive years. District procedures addressing non-use of a water right are as follows:

- 1) Survey of entire District will be conducted and documented each year. Throughout the season, District staff shall document the use of all water rights as fully used, partially used, or not used. If partial use, an estimate will be made of actual acres irrigated. Current aerial photos may be used when available.
- 2) The surveys will be completed no later than October 15<sup>th</sup> of each year and will be kept as a permanent record.
- 3) The survey results will be entered into a database. Staff will compile a list of all appurtenant water rights reported as partially used or not used.
- 4) All users with a documented 4 years of non-use shall receive a notice from the District clearly stating the ORS and OAR, the options they have to protect their water, and the District's right to petition OWRD to remove the water if not used in the 5<sup>th</sup> year. Notice shall be mailed to users by November 15<sup>th</sup> by certified mail and copy by first class mail. Copy of notice shall be sent to any security interest holders of record. The District shall provide the Oregon Water Resource Department with a copy of each 4<sup>th</sup> year notice sent to users within 30 days of the mailing date of the notice.
- 5) During the season of the 5<sup>th</sup> year, the user must do one of the following:
  - a) lease instream (application must be filed with District by February 15<sup>th</sup>)
  - b) transfer off
  - c) exercise the right on land

- 6) If any of the above options are not exercised, the District will file a transfer application with OWRD to remove the non-use water from the property. No later than November 15<sup>th</sup> a notice will be sent by certified mail and a copy by first class mail to the water user stating District intent to transfer the water off. Copy of notice shall be sent to any security interest holders of record. The District shall provide the Department with a copy of each 5<sup>th</sup> year notice sent to a user within 30 days of the mailing date of the notice. User has 30 days from the mailing date to advise the District in writing of their objections.
- 7) District Manager shall attempt to resolve the objection with the user. If unable to resolve, a hearing will be held before the District Board of Directors within 30 days. The Board shall determine whether to submit the application to the OWRD Director.
- 8) If the District does not receive a written objection in 30 days, the District will submit the transfer application to the Director requesting approval. Application must be submitted to OWRD before the last working day of December of the 5<sup>th</sup> year of non-use.