

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Instream Transfer)	PRELIMINARY DETERMINATION
Application T-14309, and Mitigation)	PROPOSING APPROVAL OF A CHANGE IN
Project MP-311, Deschutes and Klamath)	PLACE OF USE AND CHARACTER OF USE
County)	AND PRELIMINARY AWARD OF
)	MITIGATION CREDITS

Authority

Oregon Revised Statute (ORS) 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating transfers to instream water rights.

OAR 690-521-0100 to 690-521-0600 establishes the process in which anyone may submit a ground water mitigation project to the Department for the purpose of establishing mitigation credits in the Deschutes Ground Water Study Area.

Pursuant to OAR 690-521-0400 (2), any mitigation credits awarded to a mitigation project are valid until used to fulfill a mitigation obligation of a ground water use in the Deschutes Ground Water Study Area. Valid mitigation credits may be assigned by any person or recognized mitigation bank to any person or other mitigation bank. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.

Applicant

WANEK RANCH, LLC
PO BOX 1287
LA PINE, OR 97739

Findings of Fact

1. On August 17, 2023, Wanek Ranch filed an application to change the place of use and character of use under Certificate 95746 to instream use. The Department assigned the application number T-14309.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
--

2. On August 19, 2024, the Department received correspondence from Josh Newton, Attorney for the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribe). The Tribe does not object to the Department processing the Transfer Application T-14309, in accordance with applicable law, and the Department's customary practice.
3. Notice of the application for transfer was published on August 22, 2023, pursuant to OAR 690-380-4000. No comments were filed in response to the notice. Consistent with land use requirements, prior to submitting the instream transfer application, the applicant provided notification of the intent to file the instream transfer application to City of LaPine, Deschutes County, Klamath County, Jefferson County, City of Bend, and the Confederated Tribes of the Warm Springs. Additionally, the Department provided notice of the proposed action to City of LaPine, Deschutes County, Klamath County, Jefferson County, City of Bend and the Confederated Tribes of the Warm Springs upon receipt of Transfer Application T-14309.
4. Certificate 95746 describes the authorized place of use by township, range, section, quarter quarter, and tax lots. The tax lots, from which the portion of the right is proposed for transfer, have changed since the original water right was issued. Some tax lot configurations no longer match those shown on the map of the water right and some of the original tax lots identified on the water right of record have been partitioned or subdivided. The portion of the water right to be transferred is described in Finding of Fact No. 6 and is consistent with the water right of record in so far as possible.
5. On November 8, 2024, the Department mailed a copy of the draft Preliminary Determination proposing to approve Instream Transfer Application T-14309 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 8, 2024, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. The portion of the right to be transferred is as follows:

Certificate: 95746 in the name of LA PINE COOPERATIVE WATER ASSOCIATION (confirmed by Deschutes River Decree, of record in Salem, in the Order Record of the Water Resources Director in Volume 16, at Page 185)

Use: IRRIGATION of 150.0 ACRES

Priority Date: 1897 for 138.5 acres of Irrigation and APRIL 30, 1902 for 11.5 acres of Irrigation

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, from May 23 to August 20, and ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, from April 1 to May 23 and from August 20 to November 1, and shall be further limited to

a diversion of not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Priority Date	April 1 to May 23 (cfs)	May 23 to Aug 20 (cfs)	Aug 20 to Nov 1 (cfs)	Duty (af)
1897	1.73	3.46	1.73	554.0
1902	0.14	0.29	0.14	46.0

Period of Use: April 1 to November 1

Source: LITTLE DESCHUTES RIVER, tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	9 E	WM	34	SW SW	550 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 34

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Cert Tax Lot	New Tax Lot	Acres	Owner Name on Certificate
1897 PRIORITY DATE								
22 S	10 E	WM	22	SE NE	101	101	16.5	Wanek, Gordon and Henrietta
22 S	10 E	WM	22	NE SE	101	101	20.9	
22 S	10 E	WM	22	SW SE	103	109	1.0	
22 S	10 E	WM	22	SW SE	101	101	1.4	
22 S	10 E	WM	22	SE SE	103	109	0.6	
22 S	10 E	WM	22	SE SE	101	101	5.0	
22 S	10 E	WM	23	NW SW	2401	2401	8.1	
22 S	10 E	WM	23	SW SW	2401	2401	4.8	
22 S	10 E	WM	27	NE NE	103	102	3.8	
22 S	10 E	WM	27	NE NE	103	103	3.6	
22 S	10 E	WM	27	NW NE	103	102	15.6	
22 S	10 E	WM	27	NW NE	103	103	9.2	
22 S	10 E	WM	27	SW NE	103	103	4.2	
22 S	10 E	WM	27	SW NE	103	104	1.4	
22 S	10 E	WM	27	SW NE	108	104	3.0	
22 S	10 E	WM	27	SW NE	108	108	1.8	
22 S	10 E	WM	27	SE NE	103	103	3.0	
22 S	10 E	WM	27	SE NE	103	104	1.2	
22 S	10 E	WM	27	SE NE	108	104	6.2	
22 S	10 E	WM	27	SE NE	108	108	3.9	
22 S	10 E	WM	27	NE SE	108	108	5.4	
22 S	10 E	WM	27	NE SE	108	105	0.3	
22 S	10 E	WM	27	NW SE	108	108	6.4	
22 S	10 E	WM	27	NW SE	108	105	11.2	
Total Acres							138.5	
APRIL 30, 1902 PRIORITY DATE								
22 S	10 E	WM	22	SW NE	101	101	0.1	Wanek, Gordon and Henrietta
22 S	10 E	WM	22	NW SE	101	101	3.8	
22 S	10 E	WM	22	SW SE	101	101	7.6	
Total Acres							11.5	

7. A total of 600.0 Acre-Feet (AF), being 554.0 AF under the 1897 priority date and 46.0 AF under the April 30, 1902 priority date, of water may be beneficially used annually under the existing right.
8. Transfer Application T-14309 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; and to establish mitigation credits in the Deschutes Ground Water Study Area.
9. Transfer Application T-14309 proposes to change the place of use of the right to create an instream reach from the point of diversion on the Little Deschutes River, into the mainstem Deschutes River, and down to Lake Billy Chinook.
10. The applicant proposes the quantities water to be transferred instream be protected as follows:

Priority Date	April 1 to May 23	May 23 to August 20	August 20 to November 1
1897	0.92 CFS	1.85 CFS	0.92 CFS
April 30, 1902	0.08 CFS	0.15 CFS	0.08 CFS

11. The applicant has requested that any instream water right established as a result of this instream transfer be additive to existing instream water rights for the same reach established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process). The applicant has also requested that any instream water rights established as a result of this instream transfer replace a portion of any existing instream rights established pursuant to ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency instream application process), with a more senior priority date.

Instream Transfer Review Criteria (OAR 690-77-0075 and 690-380-4010)

12. The portions of the right proposed to be transferred to instream use were leased instream within the last five years under Instream Lease IL-1450, IL-1742, and IL-1743, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
13. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-14309.
14. The transfer application requests to protect water instream from the Little Deschutes River into the mainstem Deschutes River. An instream reach is generally from the point of diversion to the mouth of the source stream (Little Deschutes River) but may be protected further if measurable in the receiving stream (the Deschutes River) (OAR 690-077-0015 (8)). The quantity that may be protected instream from the Little Deschutes River is

measurable into the Deschutes River and may be protected instream in the Deschutes River.

15. The segment of the reach on the mainstem Deschutes River between the confluence with the Little Deschutes River and Bend is a losing reach and loses approximately 7% of its flows. The quantity of water that may be protected instream in the mainstem Deschutes River (Instream Reach 2 below) requires additional modification to prevent injury and enlargement.
16. Based on Findings of Fact No. 15, the Department proposes to modify the quantities to be transferred and protected instream as follows:

Instream Reach 1: From POD (as described in Finding of Fact No. 6) to the mouth of the Little Deschutes River

Priority Date	April 1 - May 22 (CFS)	May 23 - August 19 (CFS)	August 20 - Oct. 31 (CFS)	Volume (AF)
1897	0.92	1.85	0.92	554.0
April 30, 1902	0.08	0.15	0.08	46.0
Totals	1.00	2.00	1.00	600.0

Instream Reach 2: In the Deschutes River from the confluence with the Little Deschutes River to Lake Billy Chinook

Priority Date	April 1 - May 22 (CFS)	May 23 - August 19 (CFS)	August 20 - Oct. 31 (CFS)	Volume (AF)
1897	0.86	1.72	0.86	515.2
April 30, 1902	0.07	0.14	0.07	42.7
Totals	0.93	1.86	0.93	557.9

17. The proposed change, as modified, would not result in enlargement of the right.
18. The proposed change, as modified, would not result in injury to other water rights.
19. The amount and timing of the proposed instream flow, as modified, is allowable within the limits and use of the original water right.
20. The protection of flows, as modified, within the proposed reach is appropriate, considering:
 - a) The instream water right begins at the recorded point of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are known areas of natural loss of streamflow to the river bed downstream from the point of diversion and channel losses have been accounted for within Reach No. 2; and
 - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water.

21. Within the reach on the Little Deschutes River there is an existing instream water right, Certificate 73226, with a priority date of October 11, 1990, that was established under ORS 537.341 (state agency application process), for the purpose of fish migration, spawning, egg incubation, fry emergence and juvenile rearing. There are existing instream water rights established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process), for the purposes of conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values; pollution abatement; and recreation.
22. Within the proposed instream reach on the mainstem Deschutes River, there are numerous existing instream water rights. There is one instream water right, Certificate 59777, established under ORS 537.346 (minimum streamflow conversion) for the purpose of supporting aquatic life and minimizing pollution, from the confluence of the Little Deschutes River to the confluence with Spring River. There is another instream water right, Certificate 59778, also established under ORS 537.346 for the purpose of supporting aquatic life and minimizing pollution, from the confluence with Spring River to the Central Oregon Irrigation District (COID) North Canal Dam. There is also a pending instream water right application, IS-70695, filed by the ODFW pursuant to ORS 537.341 (state agency application process), with the Department to establish an instream water right from the COID North Canal Dam to Lake Billy Chinook. These existing and pending instream water rights have priority dates ranging from 1983 to 1990. The remaining instream water rights were established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process). Most of these instream rights are located between the Central Oregon Canal and Lake Billy Chinook and have priority dates ranging from 1885 to 1961.
23. The existing instream water rights, established under and ORS 537.341 (state agency application process) and ORS 537.346 (minimum streamflow conversion), within the proposed reach on the Little Deschutes River and the Deschutes River are sufficient to protect the monthly quantities of water necessary for supporting aquatic life and anadromous and resident fish habitat, but are not always met. By replacing a portion of these instream water rights, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for supporting aquatic life and anadromous and resident fish habitat under an earlier priority date.
24. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer and instream lease process) and ORS 537.470 (allocation of conserved water process), located within the proposed reach on the Little Deschutes River and the Deschutes River, any new instream water right established by this transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values, pollution abatement and recreation.

25. During the period April 1 through October 31, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or ORS 537.470, unless otherwise specified in an order approving a new instream water right under these statutes.
26. The total monthly quantities of water to be protected under the existing and proposed instream rights within the proposed reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.
27. Instream Lease IL-1742, involving portions of the right proposed for transfer to instream use, terminated on October 31, 2024, and is of no further force or effect. The subsequent credits created by the instream lease expired on December 31, 2024.

Preliminary Award of Deschutes Basin Mitigation Credits

28. Wanek Ranch (the Applicant) has requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to Wanek Ranch, LLC.
29. The Department assigned this mitigation credit project number MP-311.
30. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on August 29, 2023. No comments were received in response to this notice.
31. The Department consulted with representatives from Oregon Department of Fish and Wildlife, Oregon State Parks and Recreation Department, Oregon Department of State Lands, the Oregon Department of Environmental Quality (DEQ), and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2) on August 24, 2023. Comments from DEQ were received in response to this notice and in favor of the application.
32. As part of the public notice of the mitigation project, the Department identified that the project may result in 270.0 mitigation credits. This preliminary determination was based upon the proposal to transfer 150.0 acres of irrigation use to instream use with a priority date of 1897 (138.5 acres of irrigation use) and April 30, 1902 (11.5 acres of irrigation use). Irrigation of 150.0 acres has an average consumptive use of 270.0 acre-feet (150.0 acres * 1.8 AF/acre = 270.0 AF). However, this volume may only be protected instream to the mouth of the Little Deschutes River (the Little Deschutes Zone of Impact).
33. The Department also identified that a portion of the mitigation credits may be available for use in the Upper Deschutes, Middle Deschutes and General Zones of Impact, because the reach of the instream use described in Finding of Fact No. 16 extends through the lower portion of the Upper Deschutes Zone of Impact and then into the Middle Deschutes Zone

of Impact and ending at the General Zone of Impact. However, these credits must be reduced by 7% to account for the loosing reach as identified in Finding of Fact No. 15.

34. Therefore, a maximum of 270.0 mitigation credits may be awarded to this mitigation credit project. The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, providing mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505, within the Little Deschutes Zone of Impact. Of the **270.0** mitigation credits within the **Little Deschutes** Zone of impact awarded to this mitigation project, up to **251.1** mitigation credits may be used in the **Upper Deschutes, Middle Deschutes, and General Zones of Impact**.
35. A maximum of 600.0 AF is proposed to be transferred to instream use and up to 270.0 AF of that, as identified above, may be used for mitigation purposes. The amount of water transferred instream and not used for mitigation purposes will benefit instream flow.
36. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate(s) for the proposed instream water right shall result in completion of the project and verification that the project is complete.
37. Mitigation credits awarded to this mitigation credit project will be valid beginning the first calendar year that water will be protected instream under any new instream water right created as a result of this instream transfer application. As identified in Finding of Fact No. 27, instream lease IL-1742 terminated October 31, 2024 and the credits created by the instream lease expired on December 31, 2024.

Determination and Proposed Action

The changes in character of use and place of use to instream use proposed in application T-14309 appear to be consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

This mitigation project appears to result in mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300 and 690-521-0400.

If Transfer Application T-14309 is approved, the final order will include the following:

1. *The changes in character of use and place of use to instream use proposed in application T-14309 are approved.*
2. *Water right certificate 95746 is modified. The Department will issue a superseding certificate describing the right when it determines that it is necessary for record keeping.*
3. *The instream water right shall provide for the protection of streamflows as follows:*

Instream Reach 1: From POD (as described in Finding of Fact No. 6) to the mouth of the Little Deschutes River

Priority Date	April 1 - May 22 (CFS)	May 23 - August 19 (CFS)	August 20 - Oct. 31 (CFS)	Volume (AF)
1897	0.92	1.85	0.92	554.0
April 30, 1902	0.08	0.15	0.08	46.0
Totals	1.00	2.00	1.00	600.0

Instream Reach 2: In the Deschutes River from the confluence with the Little Deschutes River to Lake Billy Chinook

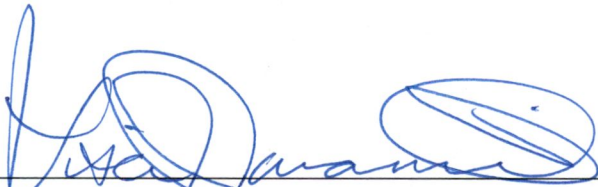
Priority Date	April 1 - May 22 (CFS)	May 23 - August 19 (CFS)	August 20 - Oct. 31 (CFS)	Volume (AF)
1897	0.86	1.72	0.86	515.2
April 30, 1902	0.07	0.14	0.07	42.7
Totals	0.93	1.86	0.93	557.9

4. Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.
5. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.
6. The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by an order approving a new instream water right under these statutes.
7. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificate 95746 and any related decree.
8. The former place of use of the transferred water shall no longer receive water as part of this right.
9. **Preliminary Award of Mitigation Credits:** Final Award of Mitigation Credits may be made upon completion of the project and verification by the Department that the project has been completed as proposed. Issuance of a new instream water right certificate, as described herein, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of **270.0 credits**, as described herein, may be awarded to this mitigation project and assigned to Wanek Ranch, LLC. Mitigation credits awarded may be used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder in the **Little Deschutes Zone of Impact**. Of the 270.0 mitigation credits awarded to

this project, up to **251.1 credits** may also be used in the **Upper Deschutes, Middle Deschutes, and General Zones of Impact**. Mitigation credits generated by this project will be available for use as mitigation beginning the first calendar year that water will be protected instream under a new instream water right.

10. Mitigation credits are valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.
11. The instream certificate created as a result of the approval of this transfer shall be identified as a mitigation credit project for a ground water permit applicant and/or ground water permit/certificate holder. Within each instream certificate, the number of mitigation credits, the zone of impact in which the mitigation credits were generated and may be used, and the volume of water dedicated instream solely for instream benefits shall also be specified.

Dated at Salem, Oregon this day APR 08 2025.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Ivan Gall, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-979-9872 or Sarah.A.Henderson@water.oregon.gov.

Protests

Under the provisions of ORS 540.520(6) & (7) and OAR 690-380-4030, within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, any person may file, jointly or severally, a protest expressing opposition of approval of the transfer application and disagreement with this Preliminary Determination or a standing statement in support of this Preliminary Determination. If this Preliminary Determination determines that a change in point of diversion or appropriation would result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050. Protests and standing

statements must be received by the Water Resources Department within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later.

Protests must be in writing and received in hard copy form with the appropriate statutory protest filing fee; protests cannot be filed by electronic mail. [OAR 690-002-0025(3) and 690-380-0100(9)]. The protest must include the following:

- The person's name, address, and telephone number;
- All reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the Department an opportunity to respond to the issue may preclude consideration of the issue during the hearing;
- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and
- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.

Requests for Standing

Under the provisions of OAR 690-380-4030(5), the Department shall provide to persons who have filed standing statements as defined under OAR 690-380-0100(11) notice of any differences between the Department's Preliminary Determination and the Final Order, notice of a hearing on the application under OAR 137-003-0535, and an opportunity to request limited party status or party status in the hearing.

Requests for standing must be received in the Water Resources Department no later than 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the preliminary determination as issued.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been

filed under OAR 690-380-4030. In accordance with OAR 690-380-4200, notice and conduct of the hearing shall:

- Be under the applicable provisions of ORS 183.310 to 183.550, pertaining to contested cases, and the hearing shall be held in the area where the rights are located unless all parties stipulate otherwise; and
- If a protest has asserted that a water right to be transferred has been forfeited through non-use, include the notice and procedures described in OAR 690-017-0500 to 690-017-0900.

If after hearing the Department issues a proposed Final Order finding that a change in point of diversion or appropriation will result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of receipt of the proposed order. Notwithstanding 690-002-0175, if the applicant files a notification of intent to pursue approval of the transfer under 690-380-5030 to 690-380-5050, the deadline for filing exceptions to the proposed order shall be 30 days after the Department provides notice to the parties that the transfer does not meet the requirements of 690-380-5030 to 690-380-5050.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear, or fail to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency representative may represent partnerships, corporations, associations, governmental subdivisions or public, or private organizations if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Will Davidson at 503-507-2749.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.

Address any correspondence to: Oregon Water Resources Department, Transfer and Conservation Section, 725 Summer Street NE, Suite A, Salem OR 97301-1266.



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

DATE: APR 08 2025

VIA CERTIFIED MAIL AND E-MAIL

WANEK RANCH, LLC
PO BOX 1287
LA PINE, OR 97739

SUBJECT: Water Right Instream Transfer Application T-14309 (MP-311)

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14309 and mitigation project MP-311.

A public notice is being published in the Department's weekly publication and in the Bend Bulletin newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please don't hesitate to contact me at 503-979-9872 or sarah.a.henderson@water.oregon.gov, if I may be of assistance.

Sincerely,

Flow Restoration Program Coordinator
Transfer and Conservation Section

cc: Transfer Application file T-14347
Jeremy Giffin, District 11 Watermaster (*via e-mail*)
Owen McMurtrey, GSI Water Solutions, Agent for the applicant (*via e-mail*)
Kyle Gorman, GSI Water Solutions, Agent for the applicant (*via e-mail*)

encs