

5. On October 23, 2025, the Department mailed a copy of the draft Preliminary Determination (further referred to as Initial Review) to the applicant, proposing to approve Transfer Application T-14469. The Initial Review cover letter provided a deadline of November 22, 2025, for the applicant to respond and submit the required information. The applicant requested that the Department proceed with issuance of a Preliminary Determination (further referred to as Proposed Final Order) and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. October 28, 2025, the applicant's agent requested that the completion date of October 1, 2027, be changed to allow more time to plumb two undeveloped wells into the irrigation system pursuant to OAR 690-380-5140(3). The Department has extended the completion date of the transfer to October 1, 2028.
6. The first right to be transferred is as follows:

Certificate: 60956 in the name of DON TOELLE (perfected under Permit G-7988)
Use: SUPPLEMENTAL IRRIGATION OF 42.0 ACRES
Priority Date: SEPTEMBER 8, 1977
Rate: 0.52 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.

Source: WELL 1 in the COW CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
22 S	32.5 E	WM	26	SE NE	WELL 1 (HARN 199)- 100 FEET NORTH AND 1680 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	32.5 E	WM	25	NW SW	0.2
22 S	32.5 E	WM	25	SW SW	0.9
22 S	32.5 E	WM	26	SE NE	0.2
22 S	32.5 E	WM	26	NE SE	8.7
22 S	32.5 E	WM	26	SW SE	0.4
22 S	32.5 E	WM	26	SE SE	31.6
Total					42.0

8. Transfer Application T-14469 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized Point of Appropriation
22 S	32.5 E	WM	25	SE SW	WELL #1 (HARN 52771) - 430 FEET NORTH AND 3440 FEET WEST FROM THE SE CORNER OF SECTION 25	0.7 mile SE
22 S	32.5 E	WM	25	NE NW	WELL #3 (HARN 52770) - 4990 FEET NORTH AND 3520 FEET WEST FROM THE SE CORNER OF SECTION 25	0.7 mile NE
22 S	32.5 E	WM	25	SE SE	WELL #4 (HARN 52421) - 750 FEET NORTH AND 1200 FEET WEST FROM THE SE CORNER OF SECTION 25	1.0 mile SE

9. The second right to be transferred is as follows:

Certificate: 60957 in the name of DON TOELLE (perfected under Permit G-9200)
Use: SUPPLEMENTAL IRRIGATION OF 62.8 ACRES
Priority Date: JANUARY 22, 1981
Rate: 0.785 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.
Source: WELL 3 in the COW CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
22 S	32.5 E	WM	26	NW NE	WELL 3 (HARN 198)- 1130 FEET SOUTH AND 910 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	32.5 E	WM	25	NW SW	0.2
22 S	32.5 E	WM	25	SW SW	0.9
22 S	32.5 E	WM	26	NE NE	2.7
22 S	32.5 E	WM	26	NW NE	5.5
22 S	32.5 E	WM	26	SW NE	2.7
22 S	32.5 E	WM	26	SE NE	10.1
22 S	32.5 E	WM	26	NE SE	8.7

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	32.5 E	WM	26	SW SE	0.4
22 S	32.5 E	WM	26	SE SE	31.6
Total					62.8

Transfer Application T-14469 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized Point of Appropriation
22 S	32.5 E	WM	25	SE SW	WELL #1 (HARN 52771) - 430 FEET NORTH AND 3440 FEET WEST FROM THE SE CORNER OF SECTION 25	0.9 mile SE
22 S	32.5 E	WM	25	NE NW	WELL #3 (HARN 52770) - 4990 FEET NORTH AND 3520 FEET WEST FROM THE SE CORNER OF SECTION 25	0.7 mile NE
22 S	32.5 E	WM	25	SE SE	WELL #4 (HARN 5421) - 750 FEET NORTH AND 1200 FEET WEST FROM THE SE CORNER OF SECTION 25	1.3 miles SE

10. Certificate 60957 references the authorized well as being Well 3; however, the applicant describes the authorized well as being Well #2 in the application. For consistency, the Department will use Well #2 (HARN 198) as the authorized well.

Transfer Review Criteria [OAR 690-380-0100(14), OAR 690-380-4010(2), and OAR 690-380-2110(2)]

11. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. A water delivery system sufficient to use the full amount of water allowed under the existing rights was present within the five-year period prior to submittal of Transfer Application T-14469.
13. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
14. The proposed points of appropriation develop groundwater from the same aquifer as the authorized points of appropriation, as required by OAR 690-380-2110(2).
15. The proposed changes, as conditioned, would not result in enlargement of the rights.
16. The proposed change, as conditioned, would not result in injury to other existing water rights.

17. All other application requirements are met.

Determination and Proposed Action

The additional points of appropriation proposed in Transfer Application T-14469 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-14469 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-14469 are approved.*
2. *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 Certificates 60956 and 60957 and any related decree.*
3. *Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new points of appropriation.*
4. *Water right Certificates 60956 and 60957 are cancelled.*
5. *Under Certificate 60956, the quantity of water diverted at the new additional points of appropriation (POA #1, POA #3, and POA #4), together with that diverted at the original point of appropriation (Well #1 (HARN 199)), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #1 (HARN 199)).*
6. *Under Certificate 60957, the quantity of water diverted at the new additional points of appropriation (POA #1, POA #3, and POA #4), together with that diverted at the original points of appropriation (Well #2 (HARN 198)), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #2 (HARN 198)).*
7. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
8. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation (new and existing).*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*

9. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2028**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
10. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on 2/20/2026



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

This Proposed Final Order was prepared by Elyse Hennen. If you have questions about the information in this document, you may reach me at 971-701-5485 or at elyse.d.hennen@water.oregon.gov.

If no protest of this Proposed Final Order is received by March 26, 2026, this Proposed Final Order will become a final order on April 28, 2026 without any further action by the Department. Oregon Laws 2025, chapter 575, section 3a(4). However, no later than April 28, 2026, the Department may withdraw this Proposed Final Order for reconsideration and issuance of a superseding proposed final order. Oregon Laws 2025, chapter 575, section 3a(5).

Notification of Intent to Pursue Approval of Transfer through Consent to Injury Process

If this Proposed Final Order 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 the consent to injury process outlined in OAR 690-380-5030 to 690-380-5050.

Protests and Requests for Party Status

The following sections explain how to: (1) file a protest in opposition to this Proposed Final Order to request a contested case hearing on this Proposed Final Order; and (2) file a request for party status to request to participate in any contested case proceeding in support of this Proposed Final Order.

Protests: Under the provisions of Oregon Laws 2025, chapter 575, section 20(7) and section 3a(1), any person may protest this Proposed Final Order. Protests must be mailed or hand delivered to the Oregon Water Resources Department at the following address: 725 Summer Street NE, Suite A, Salem, OR 97301. If you wish to submit a protest by U.S. mail, please

consider mailing early to ensure the Department receives the protest by the deadline specified. Protests must be received by the Water Resources Department no later than **March 26, 2026**.

Protests must meet the following requirements:

- Be in writing;
- Include the protestant's name, address, and telephone number;
- Include a description of the protestant's interest in the Proposed Final Order, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented;
- Include a detailed description of how the action proposed in the Proposed Final Order would impair or be detrimental to the protestant's interest and/or the claimed public interest;
- Identify which of the Proposed Final Order's recommended findings of fact, conclusions of law or conditions of approval the protestant objects to;
- Raise all reasonably ascertainable issues and include all reasonable available arguments that support the protestant's position;
- Include any citation of legal authority to support the protest, if known;
- Explain how the issues raised in the protest are within the Department's jurisdiction;
- If the protestant is the applicant, include a protest fee of \$720 required by ORS 536.050; and
- If the protestant is not the applicant, include a protest fee of \$1,425 required by ORS 536.050.

Requests for Party Status: Under the provisions of Oregon Laws 2025, chapter 575, section 20(7) and section 3a(2), if this Proposed Final Order is protested, any person who supports this Proposed Final Order may file a request for party status to request to participate in any contested case proceeding on the Proposed Final Order or for judicial review of a final order resulting from the Proposed Final Order. Requests for party status must be mailed or hand delivered to the Oregon Water Resources Department at the following address: 725 Summer Street NE, Suite A, Salem, OR 97301. If you wish to submit a request for party status by U.S. mail, please consider mailing early to ensure the Department receives the request by the deadline specified. Requests for party status must be received by the Water Resources Department no later than **April 27, 2026**.

Requests for party status must be in writing and include the following:

- Names and addresses of the requester and any organization the requester represents;
- Name and address of the requester's attorney, if any;

- A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
- If the requester seeks to protect a personal interest in the outcome of any contested case hearing on the Proposed Final Order, a detailed statement of the requester's interest, economic or otherwise, and how such interest may be affected by the results of the hearing;
- If the requester seeks to represent a public interest in the results of any contested case hearing on the Proposed Final Order, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the hearing, and the requester's qualifications to represent such public interest;
- A statement of the reasons why existing parties to the proceeding cannot adequately represent the private and/or public interest(s) the requester seeks to represent; and
- The request for party status fee of fee of \$1,425 required by Oregon Laws 2025, chapter 575, section 3a(2)(b)(C) and ORS 536.050.

After the deadline for requests for party status, the Department will provide copies of any timely requests for party status, accept responses to requests for party status, and consider and rule on timely requests for party status as provided in OAR 137-003-0535.

Additional Notices

Notice of the circumstances under which this Proposed Final Order will become a final order:

If no protest of this Proposed Final Order is timely received and the Department does not withdraw this Proposed Final Order for reconsideration within 33 days after the close of the period for submitting a protest, this Proposed Final Order will become a final order on the date that is 33 days after the close of the period for submitting a protest, with no further action required by the Department. If a protest or protests are timely received, but later: (1) all timely-filed protests are withdrawn and the withdrawals are not based on a settlement agreement requiring changes to this Proposed Final Order; (2) all protestants fail to appear at a scheduled hearing; or (3) all protestants notify the Department or the administrative law judge that the protestants will not appear at a scheduled hearing, the protestants will have waived any right to a hearing, and the Department or the administrative law judge will issue an order dismissing the protests and notifying the parties that this Proposed Final Order has become a final order. OAR 137-003-0672. The Department designates the relevant portions of its file on this matter, including all materials that you have submitted relating to this matter, as the record for the purpose of proving a prima facie case upon default. OAR 137-003-0672.

Notice of Right to Pursue Approval of Transfer through Consent to Injury Process after Contested Case Hearing: If after a contested case hearing on this Proposed Final Order the Department issues a proposed 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.

Notice of right to be represented by an attorney: You may be represented by an attorney at any contested case hearing on this Proposed Final Order. 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 137-003-0555, an “authorized representative” as defined at OAR 137-003-0555(1)(b) may represent a partnership, corporation, association, governmental subdivision or public or private organization 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 to active duty servicemembers: Active-duty service members have a right to stay proceedings under the federal Service Members 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 a request for party status, or if you have previously filed a protest or a request for party status 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

February 20, 2026

VIA CERTIFIED MAIL AND E-MAIL

TOELLE RANCH LLC
72702 COW CREEK RD
BURNS, OR 97720

SUBJECT: Water Right Transfer Application T-14469

Please find enclosed the Proposed Final Order indicating that, based on the information available, the Department intends to approve application T-14469. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Burns Times Herald newspaper, simultaneously with issuance of the Proposed Final Order. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Proposed Final Order or a request for party status supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Proposed Final Order will become a Final Order 33 days after the protest period ends, without any further action by the Department.

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 Proposed Final Order to present information and arguments supporting their position in a quasi-judicial proceeding.

Please don't hesitate to contact me at 971 701-5485 or Elyse.D.Hennen@water.oregon.gov, if I may be of assistance.

Sincerely,

Elyse Hennen
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-14469
Donald (Dally) S. Swindlehurst, District 10 Watermaster (*via e-mail*)
Scott Montgomery, Agent for the applicant (*via e-mail*)

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