

4. On March 12, 2019, the agent for the applicant submitted an amended application removing the change from a surface water point of diversion to a groundwater point of appropriation.
5. On February 28, 2020, the agent for the applicant submitted an affidavit for the partial cancellation of Certificate 68109.
6. On June 29, July 22, and July 27, 2020, the agent for the applicant provided additional documentation requested by the Department to support the evidence of use provided with the application, this included aerial images and a description of the system and the system capacity.
7. On May 20, 2020, the agent for the applicant submitted an affidavit to diminish the entirety of Certificate 68109.
8. On June 4, 2020, the agent for the applicant withdrew the affidavit of diminution for Certificate 68109.
9. On August 6, 2020, the Department received additional documentation to support the evidence of use information for Certificate 93852. The Department determined that the applicant had been using the entirety of Certificate 93852 to irrigate the place of use. The applicant had lost access to the existing point of diversion (POD) for primary irrigation under Certificate 68109, layered with Supplemental irrigation under Certificate 93852, satisfying the requirements under OAR 690-380-2320.
10. On December 11, 2020, Certificate 68109 was cancelled under Special Order Volume 117, at Page 811, and Certificate 95252 was issued for the portion of the right not affected by this Order. This transfer will affect Certificate 95252.
11. On November 13, 2025, the Department sent a copy of the draft Preliminary Determination (further labelled as Initial Review) to the applicant, proposing to approve Transfer Application T-13015. The Initial Review cover letter provided a deadline of December 13, 2025, for the applicant to respond and submit required information. The applicant requested that the Department proceed with issuance of a Preliminary Determination (further labelled as Proposed Final Order) and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
12. The right to be transferred is as follows:

Certificate: 93852 in the name of OSCAR LOEWEN (perfected under Permit G-12607)
Use: SUPPLEMENTAL IRRIGATION OF 32.0 ACRES
Priority Date: SEPTEMBER 21, 1992
Rate: 0.4 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation under this right together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its

equivalent) for each acre irrigated, and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: A WELL IN THOMAS CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	10	SE SW	4	POA 1 - 695 FEET NORTH AND 415 FEET WEST FROM THE SOUTHERLY SW CORNER OF DLC 54

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
10 S	2 W	WM	10	NE SW	3	3.5
10 S	2 W	WM	10	SE SW	4	28.5
Total						32.0

13. Transfer Application T-13015 proposes to change the character of use to primary irrigation.

Transfer Review Criteria [OAR 690-380-0100(14), 690-380-4010(2) and OAR 690-380-2320]

14. Water has been used within the last five years prior to the submittal of Transfer Application T-13015 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

15. A water delivery system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-13015.

16. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).

17. The proposed change, as conditioned, would not result in enlargement of the right.

18. The proposed change, as conditioned, would not result in injury to other existing water rights.

19. All other application requirements are met.

Partial Cancellation of a Water Right

20. On November 12, 2025, the Department received an affidavit from the applicant’s agent certifying that a portion of Certificate 95252 will be abandoned and cancelled simultaneously with approval of this final order. The portion of the Certificate to be cancelled is as follows:

Certificate: 95252 in the name of EAGLE CREEK NORTHWEST, LLC (perfected under Permit S-51213)

Use: IRRIGATION OF 33.2 ACRES
Priority Date: JUNE 26, 1990
Rate: 0.42 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent), and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.
Source: SMALLMAN CREEK, a tributary of the NORTH SANTIAM RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	2 W	WM	10	NE NW	5300 FEET NORTH AND 1390 FEET EAST FROM THE SW CORNER OF SECTION 10

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	2 W	WM	10	NE SW	3.5
10 S	2 W	WM	10	SE SW	29.7
Total					33.2

Determination and Proposed Action

The change from supplemental use to primary use proposed in Transfer Application T-13015 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right will be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved, and the abandoned right will be cancelled.

If Transfer Application T-13015 is approved, the final order will include the following:

1. *The change from supplemental use to primary use proposed under Transfer Application T-13015 is approved. The portion of the right that has or been abandoned is cancelled.*
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 Certificate 93852 and any related decree.*
3. *Water right Certificates 93852 and 95252 are cancelled. A new certificate will be issued describing the portion of Certificate 95252 not affected by this transfer and cancellation.*
4. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2027**. 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 change and full beneficial use of the water.*

5. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on 3/12/2026



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

This Proposed Final Order was prepared by Dante Luongo. If you have questions about the information in this document, you may reach me at 971-304-5006 or Dante.J.Luongo@water.oregon.gov.

If no protest of this Proposed Final Order is received by April 16, 2026 , this Proposed Final Order will become a final order on May 19, 2026, without any further action by the Department. Oregon Laws 2025, chapter 575, section 3a(4). However, no later than May 19, 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 **April 16, 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 **May 18, 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.

DRAFT

STATE OF OREGON

COUNTY OF LINN

CERTIFICATE OF WATER RIGHT

THIS **DRAFT** CERTIFICATE ISSUED TO

EAGLE CREEK NORTHWEST LLC
PO BOX 592
YAKIMA, WA 98907

confirms the right to use the waters of the SMALLMAN CREEK, a tributary of the NORTH SANTIAM RIVER, for SUPPLEMENTAL IRRIGATION of 44.2 ACRES.

This right was perfected under Permit S-51213. The date of priority is JUNE 26, 1990. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.55 CUBIC FOOT PER SECOND for supplemental irrigation, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	2 W	WM	10	NE NW	5300 FEET NORTH AND 1390 FEET EAST FROM THE SW CORNER OF SECTION 10

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-EIGHTIETH of one cubic foot per (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	2 W	WM	10	NW SW	7.5
10 S	2 W	WM	10	SW SW	36.7
Total					44.2

This certificate describes that portion of water right Certificate 95252, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered _____, approving Transfer Application T-13015.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

Failure to comply with any provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The use described herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed _____.

DRAFT

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



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

3/12/2026

VIA CERTIFIED MAIL AND E-MAIL

EAGLE CREEK NORTHWEST LLC
PO BOX 592
YAKIMA, WA 98907

SUBJECT: Water Right Transfer Application T-13015

Please find enclosed the Proposed Final Order (previously referred to as Preliminary Determination) indicating that, based on the information available, the Department intends to approve application T-13015. 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 Albany Democrat-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 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 public 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 971 304-5006 or Dante.J.Luongo@water.oregon.gov, if I may be of assistance.

Sincerely,

Dante Luongo
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-13015
Gregory J. Wacker, District 16 Watermaster (*via e-mail*)
Will McGill, Agent for the applicant (*via e-mail*)