

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

In the Matter of Transfer Application	)	PROPOSED FINAL ORDER PROPOSING
T-14690, Linn County	)	APPROVAL OF AN ADDITIONAL POINT OF
	)	DIVERSION AND A CHANGE IN PLACE OF
	)	USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish 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 Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

DAVID AND KATHRYN ROGERS REVOCABLE LIVING TRUST
26366 GAP RD
BROWNSVILLE, OR 97327

Findings of Fact

1. On June 30, 2025, David and Kathryn Rogers Revocable Living Trust filed an application for an additional point of diversion and to change the place of use under Certificate 36898. The Department assigned the application number T-14690.
2. Notice of the application for transfer was published on July 8, 2025, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 6, 2025, the Department requested amended pages to Table 2 and an amended map from the applicant's agent to more accurately reflect the changes being made to Certificate 36898.
4. On October 14, 2025, the applicant's agent submitted amended pages to the application to more accurately reflect the changes being made to Certificate 36898.

Under Oregon Laws 2025, chapter 575, section 20(6), section 20(7), and section 3a(1), any person may file a protest of this Proposed Final Order within 30 days after publication of notice of this Proposed Final Order in the Department's weekly notice. Under Oregon Laws 2025, chapter 575, section 20(7) and 3a(2), if a protest is filed, any person who supports this Proposed Final Order may file a request for party status within 30 days after the deadline for filing a protest. Please refer to the end of this document for further information about filing protests and requests for party status.

5. On November 10, 2025, the Department sent a copy of the draft Preliminary Determination (Further referred to as Initial Review) to the applicant, proposing to approve Transfer Application T-14690. The Initial Review cover letter provided a deadline of December 10, 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. On January 21, 2026, the Department received a request from the applicant to extend the completion date to October 1, 2031, due to extended ODFW approval times for fish screening.
7. The right to be transferred is as follows:

Certificate: 36898 in the name of LESTER H. AND MARY ANNA WALKER (perfected under Permit S-30046)

Use: IRRIGATION OF 21.5 ACRES

Priority Date: AUGUST 24, 1964

Rate: 0.22 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: PIERCE CREEK, a tributary of MUDDY CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
15 S	3 W	WM	12	SE NW	40	POD 1 - 540 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF PIERCE DLC 40

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Proposed Changes
15 S	3 W	WM	12	NE NW	40	1.4	POU/APOD
15 S	3 W	WM	12	NW NW	40	4.9	POU/APOD
15 S	3 W	WM	12	NW NW	40	0.7	APOD
15 S	3 W	WM	12	SW NW	40	6.6	POU/APOD
15 S	3 W	WM	12	SW NW	40	5.1	APOD
15 S	3 W	WM	12	SE NW	40	2.8	POU/APOD
Total						21.5	

8. Transfer Application T-14690 proposes an additional point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Approximate Distance from Authorized Point of Diversion
15 S	3 W	WM	12	SW NW	40	POD 2 - 220 FEET NORTH AND 480 FEET EAST FROM THE SW CORNER OF DLC 40	1050 FEET DOWNSTREAM

9. Transfer Application T-14690 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
15 S	3 W	WM	11	NE NE	43	3.4
15 S	3 W	WM	11	SE NE	43	1.6
15 S	3 W	WM	12	NW NW	40	4.6
15 S	3 W	WM	12	NW NW	43	3.1
15 S	3 W	WM	12	SW NW	43	2.4
15 S	3 W	WM	12	SW NW	40	6.4
Total						21.5

10. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

Transfer Review Criteria [OAR 690-380-0100(14), OAR 690-380-4010(2), OAR 690-380-2200 and OAR 690-380-2110(2)]

11. Water has been used within the five-year period prior to submittal of Transfer Application T-14690 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.
12. 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-14690.
13. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
14. The proposed point of diversion diverts water from the same source of surface water as the authorized point of diversion, as required by OAR 690-380-2110(2).
15. The proposed changes, as conditioned, would not result in enlargement of the right.
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 change in point of diversion and change in place of use proposed in Transfer Application T-14690 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-14690 is approved, the final order will include the following:

1. *The change in point of diversion and change in place of use proposed in Transfer Application T-14690 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 Certificate 36898 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 point of diversion or the new place of use.*
4. *Water right Certificate 36898 is cancelled.*
5. *The quantity of water diverted at the new point of diversion (POD2) shall not exceed the quantity of water lawfully available at the original point of diversion (POD1).*
6. *Water shall be acquired from the same source of surface water as the original point of diversion.*
7. *The former place of use of the transferred right shall no longer receive water under the right.*
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 diversion, with the exception that water rights issued to the Bureau of Reclamation or an irrigation district (or similar entity) are not subject to this condition.*
 - 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. *Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.*

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly

10. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2031**. 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.*
11. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on 3/16/2026



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.



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

March 16, 2026

VIA CERTIFIED MAIL AND E-MAIL

DAVID AND KATHRYN ROGERS REVOCABLE LIVING TRUST
26366 GAP RD
BROWNSVILLE, OR 97327

SUBJECT: Water Right Transfer Application T-14690

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-14690. 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, 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 standing statement 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 971 304-5006 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-14690
Lanaya F. Blakely, District 2 Watermaster (*via e-mail*)
Eric Anthony Urstadt, Agent for the applicant (*via e-mail*)