



4. On August 1, 2025, the applicant's agent requested a completion date of October 1, 2028, to allow sufficient time for the applicant to construct the proposed additional points of appropriation and put water to beneficial use. The Department granted the longer time for completion per OAR 690-380-5140 (3).

5. The right to be transferred is as follows:

**Certificate:** 97923 in the name of JAMES D GILBERT TRUST (perfected under Permit G-15483)

**Use:** NURSERY USE ON 36.5 ACRES

**Priority Date:** AUGUST 2, 2002

**Rate:** 0.267 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for nursery use is limited to a maximum of 5.0 acre feet per acre and a diversion of 0.15 cubic foot per second per acre. For irrigation of containerized nursery plants, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted is limited to ONE-EIGHTEITH of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

**Period of Use:** MAY 1 THROUGH OCTOBER 1

**Source:** A WELL in DOVE CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 E	WM	25	SE SE	WELL 1 – 840 FEET NORTH AND 800 FEET WEST FROM THE SE CORNER OF SECTION 25

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	25	SW SE	6.0
4 S	1 E	WM	25	SE SE	9.6
4 S	2 E	WM	30	NW SW	20.9
TOTAL					36.5

6. Transfer Application T-14554 proposes additional points of appropriation located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized Point of Appropriation
4 S	1 E	WM	25	SE SE	WELL 3 - 890 FEET NORTH AND 850 FEET WEST FROM THE SE CORNER OF SECTION 25	50 FEET NORTHWEST

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized Point of Appropriation
4 S	2 E	WM	30	NW SW	WELL 2 - 1400 FEET NORTH AND 320 FEET EAST FROM THE SW CORNER OF SECTION 30	1250 FEET NORTHEAST

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

7. Water has been used within the last five years, 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.
8. 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-14554.
9. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
10. 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).
11. The proposed change, as conditioned, would not result in enlargement of the right.
12. The proposed change, as conditioned, would not result in injury to other existing water rights.
13. All other application requirements are met.

**Determination and Proposed Action**

The additional points of appropriation proposed in Transfer Application T-14554 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-14554 is approved, the final order will include the following:*

1. *The additional points of appropriation proposed in Transfer Application T-14554 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 97923 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 Certificate 97923 is cancelled.*

5. *The quantity of water diverted at the new additional points of appropriation (Well 2 and Well 3), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).*
6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *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.*
8. *Static Water Level Measurement Condition:*

*To monitor the effect of water use from the wells authorized under this right, the Department shall require the water user to make and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement. Based on an analysis of the data collected, the Director may require that the user obtain and report additional annual static water level measurements. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.*

*All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:*

- (A) *Identify each well with its associated measurement; and*
- (B) *Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and*
- (C) *Specify the method used to obtain each well measurement; and*
- (D) *Certify the accuracy of all measurements and calculations submitted to the Department.*

*The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the wells if annual water level measurements reveal any of the following events:*

- (A) An average water level decline of three or more feet per year for five consecutive years; or
- (B) A water level decline of 15 or more feet in fewer than five consecutive years; or
- (C) A water level decline of 25 or more feet; or
- (D) Hydraulic interference leading to a decline of 25 or more feet in any neighboring well with senior priority.

The reference level against which any future measurement will be compared is 20.25 feet below land surface for the well.

The period of non or restricted use shall continue until the annual water level rises above the decline level which triggered the action or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this right. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this right, then use of water from the wells shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

- 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 change and full beneficial use of the water.
- 10. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on 4/20/2026



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

This Proposed Final Order was prepared by Kim French. If you have questions about the information in this document, you may reach me at 503-979-9607 or Kim.R.French@water.oregon.gov.

## Protests

**If no protest of this Proposed Final Order is received by May 28, 2026, this Proposed Final Order will become a final order on June 30, 2026, without any further action by the Department. Oregon Laws 2025, chapter 575, section 3a(4). However, no later than June 30, 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 **May 28, 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 **June 29, 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 971-453-1175, 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

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[www.oregon.gov/owrd](http://www.oregon.gov/owrd)

April 28, 2026

VIA CERTIFIED MAIL AND E-MAIL

JAMES D GILBERT TRUST  
28696 S CRAMER RD  
MOLALLA, OR 97038

SUBJECT: Water Right Transfer Application T-14554

Please find enclosed the Proposed Final Order (previously known as Preliminary Determination) indicating that, **The Proposed Final Order will become a Final Order 33 days after the protest period ends without any further action by the Department, as a matter of law, if no protest is filed.**

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.

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Please don't hesitate to contact me at 503 979-9607 or [Kim.R.French@water.oregon.gov](mailto:Kim.R.French@water.oregon.gov), if I may be of assistance.

Sincerely,

Kim French  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-14554  
Amy J. Landvoigt, District 20 Watermaster (*via e-mail*)  
Shonee D. Langford, Agent for the applicant (*via e-mail*)

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