

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

In the Matter of Transfer Application	)	PROPOSED FINAL ORDER APPROVING
T-14845, Umatilla County	)	OF A CHANGE IN PLACE OF USE AND
	)	CHARACTER OF USE AND PARTIAL
	)	CANCELLATION OF A WATER USE
	)	PERMIT

Authority

Oregon Revised Statutes (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 Rules (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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

CONFEDERATED TRIBES OF THE UMATILLA INDIAN
RESERVATION
46411 TIMINE WAY
PENDLETON, OR 97801

Findings of Fact

1. On April 2, 2026, Confederated Tribes of the Umatilla Indian Reservation filed an application to change the place of use and character of use under Certificate 2529 to instream use. The Department assigned the application number T-14845.

Under ORS 540.520(8) and (9) and ORS 536.077(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 ORS 540.520(9) and ORS 536.077(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.

2. On June 3, 2026, the Department determined that a portion of the place of use under Certificate 2529 is layered with supplemental irrigation under Permit G-16091. The Department notified the applicant and agent that Permit G-16091 could either be included in T-14845 for instream use or be cancelled pursuant to OAR 690-380-2250(2).
3. On June 12, 2026, the agent responded, indicating that Permit G-16091 will not be included in the instream transfer, and for the Department to proceed with cancellation of the portion that is layered with Certificate 2529.
4. Consistent with land use requirements, notice of the intent to file the instream transfer application was provided by the applicant to Umatilla County Community Development and City of Pendleton Planning Department. Additionally, the Department provided notification of the proposed action to these local governments upon receipt of Transfer Application T-14845.
5. On June 20, 2026, the Department sent a copy of the Initial Review to the applicant, proposing to approve Transfer Application T-14845. The Initial Review cover letter provided a deadline of July 20, 2026, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Proposed Final Order and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. Notice of the application for transfer was published on August 4, 2026, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. The right to be transferred is as follows:

Certificate: 2529 in the name of FRED GIENGER (confirmed by the Umatilla River Decree, recorded at Special Order Volume 3, Page 127)

Use: IRRIGATION of 60.0 ACRES of LAND, DOMESTIC and STOCK USE

Priority Date: FEBRUARY 20, 1890

Rate: 0.75 CUBIC FOOT PER SECOND, SUBJECT TO THE PROVISIONS OF PARAGRAPH 33 OF SAID DECREE AND ALL OTHER CONDITIONS AND LIMITATIONS CONTAINED IN SAID DECREE

Source: BIRCH CREEK and SPRING, tributary of the UMATILLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Not specified in certificate					

Authorized Place of Use:

IRRIGATION, DOMESTIC, AND STOCK USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	32 E	WM	33	NE SE	1.0
1 N	32 E	WM	33	SE SE	29.0
1 N	32 E	WM	34	NW SW	16.0
1 N	32 E	WM	34	SW SW	14.0
Total					60.0

8. The Department has received information from the Applicant that better describes the authorized points of diversion under Certificate 2529, as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 N	32 E	WM	33	NE NE	POD 1 (GIENGER DITCH) - LATITUDE: 45.514851 LONGITUDE: -118.813124
1 N	32 E	WM	34	NW SW	SPRING – LATITUDE: 45.520246 LONGITUDE: -118.806185

9. Certificate 2529 does not specify an irrigation season. The Umatilla Decree does not limit the irrigation season stating, “the irrigators shall have the right to use the water at any time of the year it can be secured.” However, for purposes of this instream transfer the irrigation season will be limited to what is ordinarily utilized in the region. Therefore, the irrigation season shall be between March 1 and November 1.
10. Certificate 2529 does not specify a rate or duty per acre; however, the Umatilla River Decree specifies the rate limit as one-eightieth CFS per acre. The duty requested in the application equals to 4.5 acre feet per acre, and the Department agrees this is an appropriate duty limit per acre for the purposes of this instream transfer.
11. A total of 270.0 acre-feet of water may be beneficially used annually under the existing right.
12. Application T-14845 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.
13. Application T-14845 proposes to change the place of use of the right to create an instream reach from the authorized point of diversion to the mouth of Birch Creek.
14. The applicant proposes the quantities of water to be transferred instream be protected as follows:

Period	Rate (cfs)	Volume (acre-feet)
April 1 to September 28	0.75	270.0

Instream Transfer Review Criteria (OAR 690-077-0075 and 690-380-4010)

15. The right was leased instream under IL-2081 during the 2025 irrigation season and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
16. 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-14845.
17. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100.
18. The instream use will be conditioned to allow less water to be protected instream below the point of diversion based upon instream measurements conducted by Department staff or others approved by the Department, which may show lower or higher levels of loss and allow the instream flows to be adjusted accordingly. The instream quantity may not exceed the instream quantity identified at the original point of diversion.
19. The instream use has been modified from the application to prevent injury and enlargement and is as follows:

Birch Creek, tributary to Umatilla River

Instream Reach: From the POD (as described in Finding of Fact No. 8) to the confluence with Umatilla River

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
2529	2/20/1890	0.75	270.0	April 1 – September 28

20. The proposed change would not result in enlargement of the right.
21. The proposed change would not result in injury to other water rights.
22. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
23. The protection of flows 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
- 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 right.

24. All other application requirements are met.

Partial Cancellation of a Water Use Permit

25. The portion of the permit to be cancelled is as follows:

Permit: G-16091 in the name of KENNETH and SABRA CRYSLER
Use: SUPPLEMENTAL IRRIGATION ON 60.0 ACRES
Priority Date: DECEMBER 21, 2005
Quantity: 0.75 CUBIC FOOT PER SECOND
Rate/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 and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: A WELL IN STEWART CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	32 E	WM	34	SW SW	50 FEET NORTH AND 1145 FEET EAST FROM SW CORNER, SECTION 34

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	32 E	WM	33	NE SE	1.0
1 N	32 E	WM	33	SE SE	29.0
1 N	32 E	WM	34	NW SW	16.0
1 N	32 E	WM	34	SW SW	14.0
Total					60.0

Determination and Proposed Action

The changes in character of use and place of use to instream use proposed in application T-14845 appear to be consistent with the requirements of ORS 540.505 to 540.586, 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 and the abandoned right will be partially cancelled.

If Transfer Application T-14845 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-14845 are approved.*
- 2. Water right certificate 2529 is cancelled. A new certificate confirming the instream water right shall be issued.*
- 3. The portion of permit G-16091 that has been abandoned is cancelled.*
- 4. The instream water right shall provide for the protection of streamflows from the authorized point of diversion to the mouth of Birch Creek.*
- 5. The quantities of water to be protected under the instream water right are:*

Birch Creek, tributary to Umatilla River

Instream Reach: *From the POD (as described in Finding of Fact No. 8) to the confluence with Umatilla River*

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
2529	2/20/1890	0.75	270.0	April 1 – September 28

- 6. 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.*
- 7. The instream use is conditioned to allow less water to be protected instream below the point of diversion based upon instream measurements conducted by Department staff or others approved by the Department, which may show lower or higher levels of loss and allow the instream flows to be adjusted accordingly. The instream quantity may not exceed the instream quantity identified at the original point of diversion.*
- 8. 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.*
- 9. 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 2529 and any related decree.*

10. *The former place of use of the transferred water shall no longer receive water as part of this right.*

Dated at Salem, Oregon this day 9/11/2026.



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

This Proposed Final Order was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-979-3917 or corey.a.courchane@water.oregon.gov

Pursuant to ORS 536.077(4) and (5), if no protest of this Proposed Final Order is received by October 15, 2026, and the Department does not withdraw this Proposed Final Order on or before November 17, 2026, this Proposed Final Order is a final order without any further action by the Department on November 17, 2026.

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 ORS 540.520(8) and (9) and ORS 536.077(1), any person may protest this Proposed Final Order. Protests must be mailed or hand delivered to the Oregon Water Resources Department at 725 Summer Street NE, Suite A, Salem, OR 97301. If you submit a protest by U.S. mail, please consider mailing early to ensure the Department receives the protest by the deadline. Protests may be emailed to will.d.davidson@water.oregon.gov, but payment of Protest fees cannot be accepted electronically and must be received by the Department by mail or hand delivery prior to the deadline. Protests and protest fees must be received by the Water Resources Department no later than **October 15, 2026**.

Protests must meet the following requirements:

- Be in writing;
- Include the protestant's name, address, telephone number, and email address, if the protestant has an email address;
- Include the name, address, telephone number, and email address, of the protestant's attorney, if the protestant is represented by an attorney;

- 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 reasonably 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 ORS 540.520(9) and ORS 536.077(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. There is no need for the applicant to file a request for party status. The applicant will automatically be a party to any contested case proceeding on this Proposed Final Order. Requests for party status may be mailed or hand delivered to the Oregon Water Resources Department at 725 Summer Street NE, Suite A, Salem, OR 97301. If you submit a request for party status by U.S. mail, please consider mailing early to ensure the Department receives the request by the deadline. Requests for party status may be emailed to will.d.davidson@water.oregon.gov, but payment of request for party status fees cannot be accepted electronically and must be received by the Department by mail or hand delivery prior to the deadline. Requests for party status and request for party status fees must be received by the Water Resources Department no later than **November 16, 2026**.

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

- Names, addresses, and email addresses (if any) of the requestor and any organization the requestor represents;
- Name, address, and email address of the requestor'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 requestor seeks to protect a personal interest in the outcome of any contested case hearing on the Proposed Final Order, a detailed statement of the requestor's interest, economic or otherwise, and how such interest may be affected by the results of the hearing;
- If the requestor 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 requestor'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 requestor seeks to represent; and
- The request for party status fee of \$1,425 required by ORS 536.077(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 690-002-0225.

Additional Notices

Notice of requirement to provide updated contact information: Parties must timely provide the Department with updated contact information, including any change of address or primary means of electronic communication. The contact information provided in the protest or request for party status, as applicable, is presumed to be valid for the purposes of service and notification of upcoming referral to the Office of Administrative Hearings unless timely updated by the party. OAR 690-002-0081.

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 690-002-

0235; 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 OAR 690-002-0175, if the applicant files a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to OAR 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 OAR 690-380-5030 to OAR 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

September 11, 2026

VIA CERTIFIED MAIL AND E-MAIL

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION
46411 TIMINE WAY
PENDLETON, OR 97801

SUBJECT: Water Right Transfer Application T-14845

Please find enclosed the Proposed Final Order indicating that, based on the information available, the Department intends to approve application T-14845. 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 request for party status supporting the Department's decision. The protest period will end 30 days after the Department's notice.

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.

Please do not hesitate to contact me, at corey.a.courchane@water.oregon.gov or (503) 979-3917, if I may be of assistance.

Corey Courchane
Allocation of Conserved Water
Transfer and Conservation Section

cc: Transfer Application file T-14845
Gregory M. Silbernagel, District 5 Watermaster (*via e-mail*)
Jessica Humphreys, Agent for the applicant (*via e-mail*)

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