

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-13349, Marion County) 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

TROY AND SHERRI KUENZI
10004 KAUFMAN RD NE
SILVERTON, OR 97381

Findings of Fact

1. On January 16, 2020, TROY AND SHERRI KUENZI filed an application to change the place of use under Certificates 48895, 51890, and 92060. The Department assigned the application number T-13349.
2. Notice of the application for transfer was published on January 28, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 4, 2020, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13349 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of September 4, 2020, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
4. The first right to be transferred is as follows:

Certificate: 48895 in the name of ALZADE GASH (perfected under Permit S-29564)
Use: IRRIGATION OF 31.3 ACRES
Priority Date: APRIL 16, 1964
Rate: 0.39 CUBIC FOOT PER SECOND

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

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: EAST FORK OF PUDDING RIVER, a tributary of PUDDING RIVER

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|-----|-----|-----|-----|-------|-----|---|
| 7 S | 1 W | WM | 18 | NW NE | 49 | 1500 FEET NORTH AND 640 FEET EAST FROM THE CENTER OF SECTION 18 |

Authorized Place of Use:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 7 S | 1 W | WM | 18 | NW NE | 49 | 8.20 |
| 7 S | 1 W | WM | 18 | SW NE | 49 | 9.20 |
| 7 S | 1 W | WM | 18 | NE NW | 49 | 10.50 |
| 7 S | 1 W | WM | 18 | SE NW | 49 | 3.40 |
| TOTAL | | | | | | 31.30 |

5. Transfer Application T-13349 proposes to change the place of use of the right to:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 7 S | 1 W | WM | 18 | NW NE | 49 | 6.20 |
| 7 S | 1 W | WM | 18 | SW NE | 49 | 8.60 |
| 7 S | 1 W | WM | 18 | NE NW | 49 | 11.90 |
| 7 S | 1 W | WM | 18 | SE NW | 49 | 4.60 |
| TOTAL | | | | | | 31.30 |

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

Certificate: 51890 in the name of MELVIN E KING (perfected under Permit G-6307)
Use: IRRIGATION OF 88.0 ACRES AND SUPPLEMENTAL IRRIGATION OF 12.0 ACRES
Priority Date: JANUARY 30, 1975
Rate: 0.70 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: ONE WELL, a tributary of PUDDING RIVER

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|-----|-----|-----|-----|-------|-----|--|
| 7 S | 1 W | WM | 18 | NE NW | 49 | 610 FEET SOUTH AND 1850 FEET EAST FROM THE NW CORNER OF SECTION 18 |

Authorized Place of Use:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 7 S | 1 W | WM | 7 | SW SW | 49 | 6.20 |
| 7 S | 1 W | WM | 7 | SE SW | 49 | 10.70 |
| 7 S | 1 W | WM | 18 | NE NW | 49 | 27.50 |
| 7 S | 1 W | WM | 18 | NW NW | 49 | 21.20 |
| 7 S | 1 W | WM | 18 | SW NW | 49 | 9.20 |
| 7 S | 1 W | WM | 18 | SE NW | 49 | 13.20 |
| TOTAL | | | | | | 88.00 |

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 7 S | 1 W | WM | 18 | NE NW | 8.80 |
| 7 S | 1 W | WM | 18 | SE NW | 3.20 |
| TOTAL | | | | | 12.00 |

7. Transfer Application T-13349 proposes to change the place of use of the right to:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 7 S | 1 W | WM | 7 | SW SW | 49 | 6.70 |
| 7 S | 1 W | WM | 7 | SE SW | 49 | 10.40 |
| 7 S | 1 W | WM | 18 | NE NW | 49 | 26.30 |
| 7 S | 1 W | WM | 18 | NW NW | 49 | 22.80 |
| 7 S | 1 W | WM | 18 | SW NW | 49 | 9.80 |
| 7 S | 1 W | WM | 18 | SE NW | 49 | 12.00 |
| TOTAL | | | | | | 88.00 |

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 7 S | 1 W | WM | 18 | NE NW | 9.05 |
| 7 S | 1 W | WM | 18 | SE NW | 2.95 |
| TOTAL | | | | | 12.00 |

8. The third right to be transferred is as follows:

Certificate: 92060 in the name of MELVIN KING (perfected under Permit G-11269)
Use: SUPPLEMENTAL IRRIGATION of 144.5 ACRES
Priority Date: OCTOBER 16, 1990
Rate: 0.89 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. This right is limited to any deficiency in the available supply of any prior right existing for the same land.

Source: WELL 3 in the PUDDING RIVER BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|-----|-----|-----|-----|-------|-----|---|
| 7 S | 1 W | WM | 18 | NW NW | 49 | 530 FEET SOUTH AND 490 FEET EAST FROM THE NW CORNER OF SECTION 18 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | | |
|-------------------------|-----|-----|-----|-------|-----|--------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 7 S | 1 W | WM | 7 | SW SW | 49 | 14.20 |
| 7 S | 1 W | WM | 7 | SE SW | 49 | 10.70 |
| 7 S | 1 W | WM | 18 | NE NW | 49 | 36.30 |
| 7 S | 1 W | WM | 18 | NW NW | 49 | 44.00 |
| 7 S | 1 W | WM | 18 | SW NW | 49 | 18.20 |
| 7 S | 1 W | WM | 18 | SE NW | 49 | 16.40 |
| 7 S | 2 W | WM | 12 | SE SE | 88 | 1.00 |
| 7 S | 2 W | WM | 13 | NE NE | 88 | 2.60 |
| 7 S | 2 W | WM | 13 | SE NE | 88 | 1.10 |
| TOTAL | | | | | | 144.50 |

9. Transfer Application T-13349 proposes to change the place of use of the right to:

| SUPPLEMENTAL IRRIGATION | | | | | | |
|-------------------------|-----|-----|-----|-------|-----|--------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 7 S | 1 W | WM | 7 | SW SW | 49 | 14.70 |
| 7 S | 1 W | WM | 7 | SE SW | 49 | 10.40 |
| 7 S | 1 W | WM | 18 | NE NW | 49 | 35.35 |
| 7 S | 1 W | WM | 18 | NW NW | 49 | 45.60 |
| 7 S | 1 W | WM | 18 | SW NW | 49 | 18.80 |
| 7 S | 1 W | WM | 18 | SE NW | 49 | 14.95 |
| 7 S | 2 W | WM | 12 | SE SE | 88 | 1.00 |
| 7 S | 2 W | WM | 13 | NE NE | 88 | 2.60 |
| 7 S | 2 W | WM | 13 | SE NE | 88 | 1.10 |
| TOTAL | | | | | | 144.50 |

Transfer Review Criteria [OAR 690-380-4010(2)]

10. 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 rights are subject to forfeiture under ORS 540.610.

11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13349.
12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

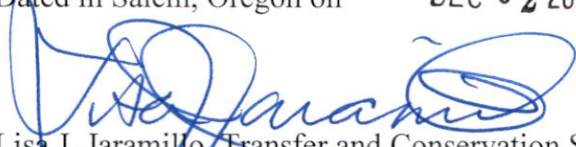
Conclusions of Law

The change in place of use proposed in Transfer Application T-13349 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-13349 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 48895, 51890, 92060, and any related decree.
3. Water right Certificates 48895, 51890, and 92060 are cancelled.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.
6. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **DEC 02 2020**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing date: DEC 03 2020