

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-10370, Yamhill County)	TEMPORARY CHANGE IN PLACE OF
)	USE

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of appropriation authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

Timothy and Suzanne Kreder
1301 NE HWY 99W #163
McMinnville OR 97128

Findings of Fact

Background

1. On April 13, 2007, Timothy and Suzanne Kreder of Trico Farms Partnership filed an application to temporarily change the place of use under Certificates 80060 and 80061 for a period of one year. The Department assigned the application number T-10370.
2. On May 10, 2007, the applicants submitted a revised map and application identifying 75.0 acres for transfer.
3. The portion of the first right to be transferred is as follows:
Certificate: 80060 in the name of Timothy and Suzanne Kreder (perfected under Permit S-51073)
Use: IRRIGATION of 75.0 ACRES
Priority Date: JUNE 6, 1990
Rate: 0.94 CUBIC FOOT PER SECOND (cfs)

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year from direct flow and storage.

Additional Limit: Use of water from direct flow is limited to the irrigation season prior to June 1 of each year.

Source: UNNAMED STREAM AND A RESERVOIR (perfected under Permit R-11247), tributaries to WEST FORK PALMER CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 S	3 W	WM	31	SW NE	660 FEET SOUTH AND 500 FEET EAST FROM THE NW CORNER OF THE SWNE OF SECTION 31

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	3 W	WM	31	NW NW	10.0
4 S	3 W	WM	31	SW NW	7.5
4 S	3 W	WM	31	SE NW	32.0
4 S	4 W	WM	36	NE NE	11.0
4 S	4 W	WM	36	SE NE	14.5

4. Application T-10370 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	4 W	WM	36	NW NE	8.4
4 S	4 W	WM	36	NE NW	19.6
4 S	4 W	WM	36	NW NW	1.6
4 S	4 W	WM	25	SW SW	1.1
4 S	4 W	WM	25	SW SE	23.0
4 S	4 W	WM	25	SE SW	21.3

5. The portion of the second right to be transferred is as follows:

Certificate: 80061 in the name of Timothy and Suzanne Kreder (perfected under Permit G-11103)

Use: SUPPLEMENTAL IRRIGATION of 75.0 ACRES

Priority Date: JUNE 6, 1990

Rate: 0.94 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season

Source: ONE WELL, tributary to WEST FORK PALMER CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 S	4 W	WM	36	NE NE	100 FEET SOUTH AND 990 FEET EAST FROM THE NW CORNER OF M. JEFFRIES DLC 57

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	3 W	WM	31	NW NW	10.0
4 S	3 W	WM	31	SW NW	7.5
4 S	3 W	WM	31	SE NW	32.0
4 S	4 W	WM	36	NE NE	11.0
4 S	4 W	WM	36	SE NE	14.5

6. Application T-10370 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	4 W	WM	36	NW NE	8.4
4 S	4 W	WM	36	NE NW	19.6
4 S	4 W	WM	36	NW NW	1.6
4 S	4 W	WM	25	SW SW	1.1
4 S	4 W	WM	25	SW SE	23.0
4 S	4 W	WM	25	SE SW	21.3

7. Notice of the application for temporary transfer was published on April 10, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
8. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
10. The proposed change would not result in enlargement of the rights.
11. The proposed change would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(6) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law

The temporary changes in place of use as proposed in application T-10370 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in place of use proposed in application T-10370 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2007 irrigation season.

3. The use shall revert to the authorized place of use at the end of the 2007 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 80060 and 80061 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 80060 and 80061.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. When required by the Department, the water user shall install, maintain and operate an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
9. The use of the remaining water rights described by Certificates 80060 and 80061 shall continue to be in accordance with the terms and conditions of Certificates 80060 and 80061.

Dated at Salem, Oregon this 31ST day of May 2007.



Phillip C. Ward, Director *PCW*

Mailing Date JUN 04 2007