

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-12896, Yamhill 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.

Applicants

TIMOTHY C. AND SUZANNE E. KREDER
11700 SE AMITY-DAYTON HWY
DAYTON, OR 97114

Findings of Fact

1. On April 10, 2018, TIMOTHY C. AND SUZANNE E. KREDER filed an application to change the place of use under Certificates 80060 and 80061. The Department assigned the application number T-12896.
2. Notice of the application for transfer was published on April 17, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 4, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-12896 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 2, 2019, for the applicants to respond.
4. On February 26, 2019, the applicants submitted a revised map, resolving the denial. 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.

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.

5. On April 4, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-12896 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on April 4, 2019, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. 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 2.0 ACRES
Priority Date: JUNE 6, 1990
Rate: 0.025 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, is 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 from direct flow and storage.
Period of Use: The use of water from direct flow is limited to the irrigation season prior to June 1 of each year.
Source: UNNAMED STREAM AND RESERVOIR CONSTRUCTED UNDER PERMIT R-11247, tributaries of WEST FORK PALMER CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
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	4 W	WM	31	SE NE	2.0

7. Transfer Application T-12896 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	3 W	WM	31	SE NW	2.0

8. 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 2.0 ACRES
Priority Date: JUNE 6, 1990
Rate: 0.025 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, is 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: ONE WELL in the WEST FORK PALMER CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	3 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	4 W	WM	36	SE NE	2.0

9. Transfer Application T-12896 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	3 W	WM	31	SE NW	2.0

10. There appears to be a scrivener's error in Certificate 80061. The measured distance of the additional point of appropriation appears to be measured from the NW corner of DLC 63, rather than DLC 57.

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

- 11. Water has been used within the five-year period prior to submittal of the transfer application 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.
- 12. 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-12896.
- 13. The proposed change would not result in enlargement of the rights.
- 14. The proposed change would not result in injury to other water rights.
- 15. All other application requirements are met.

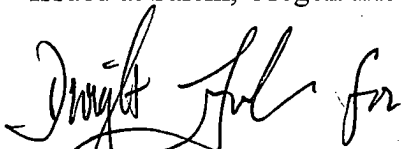
Conclusions of Law

The change in place of use proposed in Transfer Application T-12896 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-12896 is 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 80060 and 80061 and any related decree.
3. Water right Certificates 80060 and 80061 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
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, 2020**. 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.
6. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Issued at Salem, Oregon this **JUN 03 2019**



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

Mailing date: **JUN 04 2019**