

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

In the Matter of Transfer Application            )  
T-12582, Union County                            )  
  )  
  )    FINAL ORDER  
  )    APPROVING A CHANGE IN POINT  
  )    OF APPROPRIATION

**Authority**

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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**

KENNETH L. TORKELESON AND  
GRACE C. TORKELESON FAMILY TRUST U/A/D MAY 9 2000  
63578 GEKELER LN  
LA GRANDE, OR 97850

**Findings of Fact**

1. On January 31, 2017, KENNETH L. TORKELESON AND GRACE C. TORKELESON FAMILY TRUST U/A/D MAY 9 2000, filed an application to change the point of appropriation under Certificates 91122 and 91123. The Department assigned the application number T-12582.
2. Notice of the application for transfer was published on February 7, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 24, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12582 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of June 26, 2017, 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.

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.

4. On June 23, 2017, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12582 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on June 27, 2017 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
5. The first right to be transferred is as follows:

**Certificate:** 91122 in the names of KENNETH TORKELSON AND GRACE TORKELSON (perfected under Permit G-15485)  
**Use:** IRRIGATION OF 135.9 ACRES  
**Priority Date:** OCTOBER 7, 2002  
**Rate:** 1.34 CUBIC FEET PER SECOND  
**Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.  
**Period of Use:** MARCH 1 THROUGH MAY 31 AND OCTOBER 1 THROUGH OCTOBER 31 OF EACH YEAR  
**Source:** A WELL within the GEKELER SLOUGH BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	14	SE NW	1340 FEET SOUTH AND 2666 FEET WEST FROM THE NE CORNER OF SECTION 14

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	38 E	WM	14	NE NW	37.5
3 S	38 E	WM	14	NW NW	21.0
3 S	38 E	WM	14	SW NW	39.4
3 S	38 E	WM	14	SE NW	38.0
Total					135.9

6. Transfer Application T-12582 proposes to move the authorized point of appropriation approximately 100 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	14	SE NW	1440 FEET SOUTH AND 2666 FEET WEST FROM THE NE CORNER OF SECTION 14

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

**Certificate:** 91123 in the name of KENNETH TORKELSON AND GRACE TORKELSON (perfected under Permit G-15258)  
**Use:** IRRIGATION OF 135.9 ACRES  
**Priority Date:** APRIL 13, 2001  
**Rate:** 1.34 CUBIC FEET PER SECOND  
**Limit/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 (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.  
**Period of Use:** JUNE 1 THROUGH SEPTEMBER 30  
**Source:** A WELL within the GEKELER SLOUGH BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	14	SE NW	1340 FEET SOUTH AND 2666 FEET WEST FROM THE NE CORNER OF SECTION 14

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	38 E	WM	14	NE NW	37.5
3 S	38 E	WM	14	NW NW	21.0
3 S	38 E	WM	14	SW NW	39.4
3 S	38 E	WM	14	SE NW	38.0
Total					135.9

8. Transfer Application T-12582 proposes to move the authorized point of appropriation approximately 100 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	14	SE NW	1440 FEET SOUTH AND 2666 FEET WEST FROM THE NE CORNER OF SECTION 14

**Transfer Review Criteria (OAR 690-380-4010)**

9. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
10. 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-12582.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.

13. All other application requirements are met.

**Conclusions of Law**

The change in point of appropriation proposed in Transfer Application T-12582 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The change in point of appropriation proposed in Transfer Application T-12582 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 91122 and 91123 and any related decree.
3. Water right Certificates 91122 and 91123 are cancelled.
4. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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.
7. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 2 day of August, 2017.

  
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Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing date:           AUG 08 2017