

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING A  
T-12458, Clackamas 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**

MISSOURI RIDGE FARM LLC  
C/O FRED KASER  
38111 S NOWLENS BRIDGE RD  
MOLALLA, OR 97038

**Findings of Fact**

1. On August 9, 2016, MISSOURI RIDGE FARM LLC filed an application to change the place of use under Certificate 89098. The Department assigned the application number T-12458.
2. Notice of the application for transfer was published on August 16, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 9, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12458 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 11, 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 applicants are authorized to pursue the transfer.
4. On March 20, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12458 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department’s

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.

weekly notice on March 21, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

**Certificate:** 89098 in the name of FRED KASER (perfected under Permit S-28844)  
**Use:** IRRIGATION of 37.9 ACRES  
**Priority Date:** MAY 16, 1963  
**Rate:** 0.38 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:** BUTTE CREEK, tributary of the PUDDING RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 E	WM	16	SE NE	39	1620 FEET SOUTH AND 1240 FEET WEST FROM THE NE CORNER OF WHITLOCK DLC 39

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	1 E	WM	9	SE SE	1		7.3
6 S	1 E	WM	10	SW SW	7		4.3
6 S	1 E	WM	15	NW NW		39	11.1
6 S	1 E	WM	16	NE NE		39	15.2
Total							37.9

6. Transfer Application T-12458 proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	1 E	WM	9	SE SW	3		18.9
6 S	1 E	WM	9	SW SE	2		15.0
6 S	1 E	WM	16	NW NE	39	39	3.2
6 S	1 E	WM	16	NE NW	39	39	0.8
Total							37.9

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

7. 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 right is subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-12458.

- 9. The proposed change would not result in enlargement of the right.
- 10. The proposed change would not result in injury to other water rights.

**Conclusion of Law**

The change in place of use proposed in Transfer Application T-12458 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 in Transfer Application T-12458 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 Certificate 89098 and any related decree.
- 3. Water right Certificate 89098 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
- 4. Water use measurement conditions:
  - a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).
  - b. The water user shall maintain the meter or measuring device in good working order.
  - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
- 5. The former place of use of the transferred right shall no longer receive water under the right.
- 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 changes and full beneficial use of the water.
- 7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 27 day of April 2017.

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

Mailing date: MAY 03 2017