

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-12976, Marion County	)	CHANGE IN POINT OF
	)	APPROPRIATION AND CHANGE IN
	)	PLACE OF USE

**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**

LEROY AND LESLI KAUFMAN  
10276 HAZELGREEN RD NE  
SILVERTON, OR 97381

**Findings of Fact**

1. On July 17, 2018, LEROY AND LESLI KAUFMAN filed an application to change the point of appropriation and to change the place of use under Certificate 92057. The Department assigned the application number T-12976.
2. Notice of the application for transfer was published on July 24, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 24, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12976 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 23, 2019, 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 November 19, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-12976 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 November 19, 2019, and in the Silverton Appeal newspaper on November 27 and December 4, 2019 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The right to be transferred is as follows:

**Certificate:** 92057 in the name of COOLEY'S GARDENS, INC. (perfected under Permit G-11656)  
**Use:** IRRIGATION of 20.1 ACRES  
**Priority Date:** NOVEMBER 15, 1991  
**Rate:** 0.25 CUBIC FOOT 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Period of Use:** MARCH 1 THROUGH OCTOBER 31  
**Source:** A WELL in the PUDDING RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 W	WM	31	NW SE	WELL - 650 FEET SOUTH AND 440 FEET EAST FROM THE EASTERLY NE CORNER OF DLC 38

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	31	SW NE	1.0
6 S	1 W	WM	31	SE NE	0.3
6 S	1 W	WM	31	NE SE	5.2
6 S	1 W	WM	31	NW SE	11.4
6 S	1 W	WM	31	SW SE	1.5
6 S	1 W	WM	31	SE SE	0.7
Total					20.1

6. Transfer Application T-12976 proposes to move the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original point of appropriation in miles (mi.)
6 S	1 W	WM	31	NE SE	WELL 1 - 285 FEET SOUTH AND 1470 FEET EAST FROM THE C1/4 CORNER OF SECTION 31	0.3 mi.
6 S	1 W	WM	31	NE SE	WELL 2 - 385 FEET SOUTH AND 1420 FEET EAST FROM THE C1/4 CORNER OF SECTION 31	0.3 mi.

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original point of appropriation in miles (mi.)
6 S	1 W	WM	31	NW SE	WELL 3 - 510 FEET SOUTH AND 985 FEET EAST FROM THE C1/4 CORNER OF SECTION 31	0.2 mi.

7. Transfer Application T-12976 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	1 W	WM	31	SW NE		42	0.20
6 S	1 W	WM	31	SW NE	1		0.80
6 S	1 W	WM	31	SE NE	2		0.30
6 S	1 W	WM	31	NE SE			4.62
6 S	1 W	WM	31	NW SE			11.40
6 S	1 W	WM	31	SW SE			1.83
6 S	1 W	WM	31	SE SE			0.95
						Total	20.1

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

8. 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.
9. 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-12976.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

**Conclusions of Law**

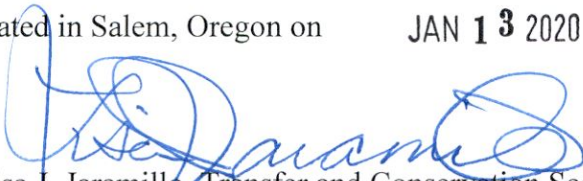
The change in point of appropriation and change in place of use proposed in Transfer Application T-12976 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

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

1. The change in point of appropriation and change in place of use proposed in Transfer Application T-12976 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 Certificate 92057 and any related decree.

3. Water right Certificate 92057 is cancelled.
4. The quantity of water diverted at the new points of appropriation (Wells 1, 2, and 3), 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. The former place of use of the transferred right shall no longer receive water under the right.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on **JAN 13 2020**



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

Mailing date: JAN 14 2020