

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING A  
T-12846, Tillamook 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**

WILLIAM B. AND KATHERINE S. KELLER  
4718 SE 73RD AVE  
PORTLAND, OR 97206

**Findings of Fact**

1. On February 12, 2018, WILLIAM B. AND KATHERINE S. KELLER filed an application to change the place of use under Certificate 50742. The Department assigned the application number T-12846.
2. Notice of the application for transfer was published on February 20, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 14, 2018, the Department contacted William B. and Katherine S. Keller by written correspondence to notify the applicant of a deficiency in the application. The Department requested that the deficiency be resolved by June 1, 2018.
4. On May 9, 2018, William Keller submitted an Evidence of Use affidavit with supporting documentation.
5. On May 23, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12846 to the applicants. The draft Preliminary

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.

Determination cover letter set forth a deadline of June 25, 2018, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination identifying the correct rate to be appropriated as 0.0033 cfs, and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

6. On June 14, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12846 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 June 19, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The portion of the right to be transferred is as follows:

**Certificate:** 50742 in the name of CLAIR D. AND DENNIS C. HIXSON and JAMES W. GOFF (perfected under Permit S-39147)  
**Use:** DOMESTIC USE FOR ONE FAMILY  
**Priority Date:** APRIL 19, 1974  
**Rate:** 0.0033 CUBIC FOOT PER SECOND  
**Source:** UNNAMED STREAM, a tributary of SOUTH FORK TRASK RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	8 W	WM	36	SE SE	30 FEET NORTH AND 1280 FEET WEST FROM THE SE CORNER OF SECTION 36

**Authorized Place of Use:**

DOMESTIC USE FOR ONE FAMILY				
Twp	Rng	Mer	Sec	Q-Q
1 S	8 W	WM	36	SE SE

8. Transfer Application T-12846 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q
1 S	8 W	WM	36	SE SE

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

9. 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.
10. A diversion structure and pipeline sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-12846.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

13. All other application requirements are met.

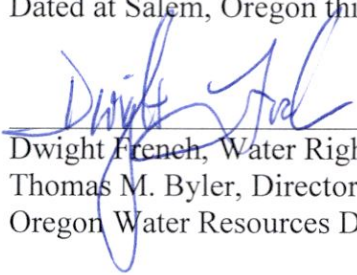
**Conclusions of Law**

The change in place of use proposed in Transfer Application T-12846 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-12846 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 50742 and any related decree.
3. Water right Certificate 50742 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this \_\_\_\_\_.

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

Mailing date: \_\_\_\_\_