



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

June 26, 2017

KENNETH L. TORKELESON AND
GRACE C. TORKELESON FAMILY TRUST U/A/D MAY 9 2000
63578 GEKELER LN
LA GRANDE OR 97580

SUBJECT: Water Right Transfer Application T-12582

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12582. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0886 or Patrick.K.Starnes@oregon.gov if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application T-12582
Shad L. Hattan, Watermaster 6 District *(via e-mail)*
Gregory T. Blackman, Agent for the applicant *(via e-mail)*

encs

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12582, Union County)	PROPOSING APPROVAL OF 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 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.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
--

4. The first right to be transferred is as follows:

Certificate: 91122 in the names of KENNETH TORSELSON AND GRACE TORSELSON (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

5. 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

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

Certificate: 91123 in the name of KENNETH TORSELSON AND GRACE TORSELSON (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

7. 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)

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

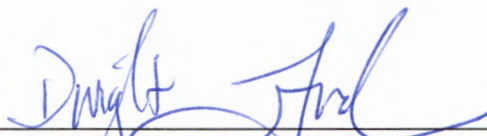
Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-12582 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12582 is approved, the final order will include the following:

- 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 23 day of June, 2017.



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

This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or marcy.j.osborn@oregon.gov.

Protests should be addressed to the attention of Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>