

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12846, Tillamook County	)	PROPOSING APPROVAL OF A
	)	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 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

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.

provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

6. 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

7. 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)]**

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 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.
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.

**Determination and Proposed Action**

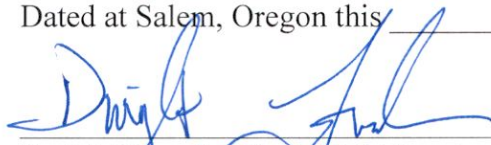
The change in place of use proposed in Transfer Application T-12846 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-12846 is approved, the final order will include the following:*

- 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.*

JUN 14 2018

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



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

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or [corey.a.courchane@oregon.gov](mailto:corey.a.courchane@oregon.gov)

*Protests should be addressed to the attention of Water Rights Services Division, 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>