

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

In the Matter of Transfer Application            )    PRELIMINARY DETERMINATION  
T-12896, Yamhill 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.

**Applicants**

TIMOTHY C. AND SUZANNE E. KREDER  
11700 SE AMITY-DAYTON HWY  
DAYTON, OR 97114

**Findings of Fact**

1. On April 10, 2018, TIMOTHY C. AND SUZANNE E. KREDER filed an application to change the place of use under Certificates 80060 and 80061. The Department assigned the application number T-12896.
2. Notice of the application for transfer was published on April 17, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 4, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-12896 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 2, 2019, for the applicants to respond.
4. On February 26, 2019, the applicants submitted a revised map, resolving the denial. 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.

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

**Certificate:** 80060 in the name of TIMOTHY AND SUZANNE KREDER (perfected under Permit S-51073)  
**Use:** IRRIGATION OF 2.0 ACRES  
**Priority Date:** JUNE 6, 1990  
**Rate:** 0.025 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, is 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 from direct flow and storage.  
**Period of Use:** The use of water from direct flow is limited to the irrigation season prior to June 1 of each year.  
**Source:** UNNAMED STREAM AND RESERVOIR CONSTRUCTED UNDER PERMIT R-11247, tributaries of WEST FORK PALMER CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	3 W	WM	31	SW NE	660 FEET SOUTH AND 500 FEET EAST FROM THE NW CORNER OF THE SWNE OF SECTION 31

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	4 W	WM	31	SE NE	2.0

6. Transfer Application T-12896 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	3 W	WM	31	SE NW	2.0

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

**Certificate:** 80061 in the name of TIMOTHY AND SUZANNE KREDER (perfected under Permit G-11103)  
**Use:** SUPPLEMENTAL IRRIGATION OF 2.0 ACRES  
**Priority Date:** JUNE 6, 1990  
**Rate:** 0.025 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, is 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. This right is limited to any deficiency in the available supply of any prior right existing for the same land.  
**Source:** ONE WELL in the WEST FORK PALMER CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	3 W	WM	36	NE NE	100 FEET SOUTH AND 990 FEET EAST FROM THE NW CORNER OF M. JEFFRIES DLC 57

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	4 W	WM	36	SE NE	2.0

8. Transfer Application T-12896 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	3 W	WM	31	SE NW	2.0

9. There appears to be a scrivener’s error in Certificate 80061. The measured distance of the additional point of appropriation appears to be measured from the NW corner of DLC 63, rather than DLC 57.

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

10. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. 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-12896.
12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

**Determination and Proposed Action**

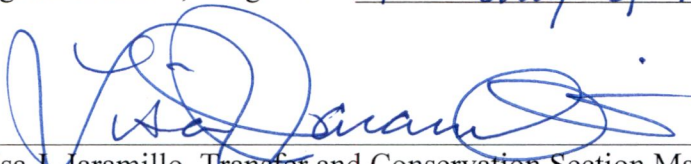
The change in place of use proposed in Transfer Application T-12896 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-12896 is approved, the final order will include the following:*

1. *The change in place of use proposed in Transfer Application T-12896 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 80060 and 80061 and any related decree.*

3. *Water right Certificates 80060 and 80061 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
4. *The former place of use of the transferred rights shall no longer receive water under the rights.*
5. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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, new certificates confirming the rights transferred will be issued.*

Signed at Salem, Oregon this 4<sup>th</sup> day of April, 2019.



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

This Preliminary Determination was prepared by: Tamera Smith. If you have any questions about the information in this document, you may reach me at 503-986-0864 or [tamera.l.smith@oregon.gov](mailto:tamera.l.smith@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>



**Oregon**  
Kate Brown, Governor

**Water Resources Department**

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April 8, 2019

VIA E-MAIL

TIMOTHY AND SUZANNE KREDER  
11700 SE AMITY-DAYTON HWY  
DAYTON, OR 97114

SUBJECT: Water Right Transfer Application T-12896

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12896. 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 541-986-0864 or at [tamera.l.smith@oregon.gov](mailto:tamera.l.smith@oregon.gov) if I may be of assistance.

Kindest regards,

Tamera Smith  
Transfer Specialist  
Transfer and Conservation Section

cc: T-12896  
Joel M. Plahn, District 16 Watermaster *(via e-mail)*  
David E. Engle, Agent for the applicant *(via e-mail)*