

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

In the Matter of Transfer Application T-6769,)
Lake County) FINAL ORDER

Authority

ORS 540.505 to 540.580 establishes 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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Findings of Fact

1. Pursuant to ORS 540.520,
 Flying A Ranch
 PO Box 882
 Lakeview OR 97630

 submitted a transfer application on June 29, 1992. The Department assigned the transfer application number T-6769.
2. The Department's weekly publication noticed submission of T-6769 on July 8, 1992; no comments were received.
3. In 2001, T-6769 was assigned to:
 Robert and Lorraine E. Houret
 5570 Sanchez Dr. #230
 San Jose CA 95123
4. T-6769 proposes to specify currently unspecified points of diversion for water rights confirmed by decree of the Circuit Court of the State of Oregon for Lake County, recorded in the Order Record of the Water Resources Director, in Volume 7, Page 233. These rights are confirmed by three certificates as detailed below.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.

5. The first right to be modified is:

Certificate: 5228 issued in the name of W.R. Bernard

Use: Irrigation of 630.3 acres and stock

Priority Dates: December 31, 1879 and December 31, 1880

Limit/Duty: One-fortieth of one cubic foot per second per acre for IRRIGATION; 0.025 cfs per 1000 head for LIVESTOCK; ¼ acre-foot per acre during any 30-day period prior to June 1st, and ½ acre-foot per acre during any 30-day period after June 1st, and 2½ acre-feet per acre during any irrigation season.

Source: Thomas Creek

The authorized place of use and proposed points of diversion for this right are as follows:

Priority Date December 31, 1879 160 acres		
Q-Q	Acres	Diversion Point & Source
NE NE	40.0	#5 Thomas Creek only
NW NE	40.0	#5 Thomas Creek only
SW NE	40.0	#5 Thomas Creek only
SE NE	40.0	#5 Thomas Creek only
SECTION 6		
TOWNSHIP 39 SOUTH, RANGE 20 EAST, W.M.		
Priority Date December 31, 1880 470.3 acres		
Q-Q	Acres	Diversion Point & Source
NE SE	9.2	#1 & #2 Thomas Creek only
NW SE	30.0	#1 & #2 Thomas Creek only
SW SE	30.0	#1 & #2 Thomas Creek only
SE SE	22.3	#1 & #2 Thomas Creek only
SECTION 31		
TOWNSHIP 38 SOUTH, RANGE 20 EAST, W.M.		
Q-Q	Acres	Diversion Point & Source
NE NW	11.8	#5 Thomas Creek only
NW NW	32.0	#5 Thomas Creek only
SW NW	40.0	#5 Thomas Creek only
SE NW	35.0	#5 Thomas Creek only
NE SW	27.0	#5 Thomas Creek only
NW SW	33.0	#5 Thomas Creek only
SW SW	40.0	#5 Thomas Creek only
SE SW	40.0	#5 Thomas Creek only
SECTION 5		
TOWNSHIP 39 SOUTH, RANGE 20 EAST, W.M.		
Q-Q	Acres	Diversion Point & Source
W ½ NW NE	20.0	#3 Thomas Creek only
W ½ SW NE	20.0	#3 Thomas Creek only
NE NW	40.0	#3 Thomas Creek only
NW NW	40.0	#3 Thomas Creek only
SECTION 8		
TOWNSHIP 39 SOUTH, RANGE 20 EAST, W.M.		

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

Certificate: 5249 issued in the name of J.E. McCoul

Use: Irrigation of 160 acres and stock

Priority Date: November 1, 1887

Limit/Duty: One-fortieth of one cubic foot per second per acre for IRRIGATION; 0.025 cfs per 1000 head for LIVESTOCK; $\frac{3}{4}$ acre-foot per acre during any 30-day period prior to June 1st, and $\frac{1}{2}$ acre-foot per acre during any 30-day period after June 1st of each year; and $2\frac{1}{2}$ acre-feet per acre during any irrigation season.

Source: Thomas Creek

The authorized place of use and proposed point of diversion for this right is as follows:

Q-Q	Acres	Diversion Point & Source
NE SE	40.0	#5 Thomas Creek
NW SE	40.0	#5 Thomas Creek
SW SE	40.0	#5 Thomas Creek
SE SE	40.0	#5 Thomas Creek
SECTION 8		
TOWNSHIP 39 SOUTH, RANGE 20 EAST, W.M.		

7. The third right to be modified is as follows:

Certificate: 5263 issued in the name of William Henry and Aubrey Roy Roush

Use: Irrigation of 120 acres

Priority Date: December 31, 1880

Limit/Duty: One-fortieth of one cubic foot per second per acre; $\frac{3}{4}$ acre-foot per acre during any 30-day period prior to June 1st, and $\frac{1}{2}$ acre-foot per acre during any 30-day period after June 1st of each year; and $2\frac{1}{2}$ acre-feet per acre during any irrigation season.

Source: Thomas Creek

The authorized place of use and proposed point of diversion for this right is as follows:

Q-Q	Acres	Diversion Point & Source
SE NW	40.0	#4 Thomas Creek
NE SW	40.0	#4 Thomas Creek
SE SW	40.0	#4 Thomas Creek
SECTION 8		
TOWNSHIP 39 SOUTH, RANGE 20 EAST, W.M.		

8. The proposed locations of diversion points from Thomas Creek are as follows:

#1. NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, T38S, R20E, W.M.; 2640 feet south and 2640 feet west from the NE corner, Section 31.

#2. NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, T38S, R20E, W.M.; 2640 feet south and 635 feet west from the NE corner, Section 31.

#3. SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, T39S, R20E, W.M.; 1320 feet north and 132 feet east from the SW corner, Section 5.

#4. NE¼ NW¼, Section 8, T39S, R20E, W.M.; 1255 feet south and 1450 feet east from the NW corner, Section 8.

#5. SE¼ SW¼, Section 31, T38S, R20E, W.M.; 10 feet north and 2650 feet west from the SE corner, Section 31.

9. Pursuant to ORS 540.520 (6), public notice of the changes proposed by T-6769 was given and no comments were received.

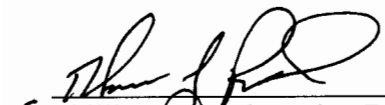
Conclusions of Law

T-6769 complies with the requirements of ORS 540.520, and the Department finds that no injury to existing water rights would result from this transfer.

Now, therefore, it is ORDERED:

1. The changes described by T-6769 are approved, provided the following conditions are met by the water user:
 - a. The right to use of the water is restricted to the place of use described, and is subject to all other conditions and limitations contained in said decree.
 - b. The quantity of water diverted at the new points of diversion, shall not exceed the quantity of water lawfully available originally in said decree.
 - c. The proposed changes shall be completed on or before October 1, 2006.
 - d. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
 - e. When required by the Department, the water user shall install and maintain a headgate, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate or measuring device must be approved by the Department prior to beginning construction, and shall be installed under the general supervision of the Department.
2. Certificates 5228, 5249, 5263 are cancelled.
3. Certificates 80620 and 80621 shall be issued to confirm the remaining rights and describe the land to which those rights are appurtenant.
4. When satisfactory proof of the completed changes is received, new certificates confirming the transferred rights shall be issued.

WITNESS the signature of the Water Resources Director, affixed October 25, 2004.


Phillip C. Ward, Acting Director
Water Resources Department

Mailing date: NOV 05 2004