

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

In the Matter of Transfer Application            )  
T-8883, Lake County, Oregon                    )

FINAL ORDER

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

**Applicant**

Terry L. Nofziger  
PO Box 575  
Christmas Valley OR 97641

**Findings of Fact**

1. Terry L. Nofziger filed an application to transfer the point of appropriation and place of use under Certificate 65626. The Department assigned the application number T-8883.
  
2. The portion of the right to be transferred is as follows:

**Certificate:** 65626 in the name of Terry L. Nofziger  
**Use:** Irrigation  
**Priority Date:** December 22, 1980  
**Quantity:** 0.15 cfs  
**Acres:** 12.1  
**Source:** Four wells in the Fort Rock Basin

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in an uncontested 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.

**Authorized Point of Appropriation:**

Township	Range	Meridian	Sec	¼ ¼	Lot	Location
26	S	18	E	W.M.	31	SE SW 1300' N & 1230' W of S¼ corner of Sec 31
26	S	18	E	W.M.	31	NE SE 1350' N & 1400' E of S¼ corner of Sec 31
26	S	18	E	W.M.	32	NE SW 1340' N & 1150' W of S¼ corner of Sec 32
26	S	18	E	W.M.	32	NE SE 1360' N & 1580' E of S ¼ corner of Sec 32

**Authorized Place of Use:**

Township	Range	Meridian	Sec	¼ ¼	Lot	Acres
26	S	18	E	W.M.	32	NE SW 0.5
26	S	18	E	W.M.	32	NW SW 0.5
26	S	18	E	W.M.	32	SW SW 0.5
26	S	18	E	W.M.	32	SE SW 0.5
26	S	18	E	W.M.	32	NW SE 3.5
26	S	18	E	W.M.	32	SW SE 3.3
26	S	18	E	W.M.	32	SE SE 3.3

3. Application T-8883 proposes to move the authorized point of appropriation for this part of the right approximately 7 miles to:

Township	Range	Meridian	Sec	¼ ¼	Lot	Location
26	S	17	E	W.M.	31	SE NW 1323' S & 1234' E of the NW corner of Sec 31

4. Application T-8883 proposes to change the place of use of the right to:

Township	Range	Meridian	Sec	¼ ¼	Lot	Acres
26	S	17	E	W.M.	31	NE SW 4.1
26	S	17	E	W.M.	31	SW SW 4.0
26	S	17	E	W.M.	31	SE SW 4.0

5. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notices.
6. A delivery system sufficient to use the full amount of water allowed under the existing right is present.
7. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. The proposed change would not result in enlargement of the right.

9. The proposed change would not result in injury to other water rights.
10. The receiving landowner responsible for completion of the changes proposed in T-8883 is:  
Mervin Stutzman  
PO Box 296  
Christmas Valley OR 97641

### **Conclusions of Law**


The changes in point of appropriation and place of use proposed in application T-8883 are consistent with the requirements of ORS Chapters 537 and 540 and OAR 690-380-5000.

### **Order**

It is therefore ordered:

1. Transfer T-8883 is hereby approved, subject to the following conditions.
2. Certificate 65626 is cancelled; Certificate 80684 shall be issued to describe the remaining rights from Certificate 65626 NOT involved in T-8883.
3. The proposed changes shall be completed on or before October 1, 2005.
4. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2006.
5. The right to 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 65626 and any related decree.
6. 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.
7. Prior to diverting water at the new point of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
8. The receiving landowner responsible for completion of the changes proposed in T-8883 is:  
Mervin Stutzman  
PO Box 296  
Christmas Valley OR 97641
9. When satisfactory proof of the completed change is received, a new certificate confirming the transferred water right shall be issued.

Dated at Salem, Oregon this 2<sup>nd</sup> day of June, 2004.

*for*   
Phillip C. Ward  
Director

*Protests should be addressed to the attention of Enforcement Section, Water Resources  
Department, 725 Summer St. NE, Salem, OR 97301-1271*

Mailing date: JUN 0 8 2004