

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

In the Matter of Transfer Application) FINAL ORDER
T-8450, Lake County) APPROVING AN ADDITIONAL POINT OF
) APPROPRIATION

Authority

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

Applicant

Flat Iron Ranch, LLC
PO Box 206
Myrtle Point, OR 97458

Findings of Fact

Background

1. On February 28, 2000, Charles Nofziger filed an application to change the point of appropriation under Permit G-10099. The Department assigned the application number T-8450.
2. On June 28, 2000, the Department issued Certificate 76578 for Permit G-10099.
3. The order approving Transfer Application T-9388 canceled Certificate 76578, resulting in the issuance of a remaining right, Certificate 83291, which is subject to this transfer.
4. On October 8, 2010, the transfer application was assigned to Flat Iron Ranch, LLC.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

5. The right to be transferred is as follows:

Certificate: 83291 in the name of CHARLES NOFZIGER (perfected under Permit G-10099)
Use: IRRIGATION OF 129.24 ACRES
Priority Date: APRIL 27, 1983
Rate: 1.62 CUBIC FEET 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 a diversion of one-eightieth of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre irrigated during the irrigation season of each year.
Source: A WELL in the CHRISTMAS VALLEY BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	16 E	WM	6	NW SE	2510 FEET NORTH AND 1820 FEET WEST FROM THE SE CORNER OF SECTION 6

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	16 E	WM	6		5	33.2
26 S	16 E	WM	6		6	31.4
26 S	16 E	WM	6		11	31.94
26 S	16 E	WM	6		12	32.7
TOTAL						129.24

6. Transfer Application T-8450 proposes an additional point of appropriation approximately 0.5 miles from the authorized point of appropriation, located as follows:

Twp	Rng	Mer	Sec	GLot	Measured Distances
26 S	16 E	WM	6	5	3970 FEET NORTH AND 1302 FEET EAST FROM THE SW CORNER OF SECTION 6

7. Notice of the application for transfer was published on March 7, 2000 pursuant to OAR 690-380-4000. No comments were filed in response to that notice.
8. Notice of the application for transfer was published in the Lake County Examiner on March 23, 30, and April 6, 2000, pursuant to ORS 540.520 and OAR 690-380-4000. No protests were filed in response to the notice.
9. On March 31, 2008, and September 15, 2009, the Department issued a draft Preliminary Determination for T-8450. Upon further review of the application, the Department is issuing this revised version to correct errors in the amount of acres and the rate involved with this transfer application.

10. On August 4, 2010, the Department mailed a revised copy of the draft Preliminary Determination proposing to approve Transfer Application T-8450 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 3, 2010, for the applicant to respond. The applicant requested a completion date of October 1, 2014 and 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.
11. On January 30, 2012, the Department issued a Preliminary Determination proposing to approve Transfer Application T-8450 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 7, 2012 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

12. Water was used according to the terms and conditions of the right during the five years prior to the submission of transfer application T-8450. There is no evidence in the record that would demonstrate the right is subject to forfeiture under ORS 540.610.
13. A pump, pipeline, and sprinkler system 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-8450.
14. The proposed change would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.

Conclusions of Law

The additional point of appropriation proposed in Transfer Application T-8450 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of appropriation proposed in Transfer Application T-8450 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 83291 and any related decree.
3. Water right certificate 83291 is cancelled. A new certificate will be issued those portions of the rights not affected by this transfer and Transfer Application T-8420.
4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original 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. When required by the Department, the water user shall install, maintain and operate an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. 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.
7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2014**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 16 day of April, 2012.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: APR 17 2012