

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11286, Klamath County) CHANGE IN 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

JERRY SOLARI, SR. AND SANDRA SOLARI
20509 S. MURPHY ROAD
RIPON, CA 95366

Findings of Fact

Background

1. On August 29, 2011, JERRY SOLARI, SR. AND SANDRA SOLARI filed an application to change the point of appropriation under Certificate 37821. The Department assigned the application number T-11286.
2. On February 9 and 13, 2012, the applicants amended the application clarifying the place of use involved in the transfer.
3. The portion of the right to be transferred is as follows:

Certificate: 37821 in the name of O'CONNER LIVESTOCK CO. (perfected under Permit G-2684)
Use: IRRIGATION of 121.55 ACRES
Priority Date: JUNE 19, 1964
Rate: 1.52 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each

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.

acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the LOST RIVER BASIN (Tule Lake)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	7	NW SE	160 FEET SOUTH AND 1870 FEET WEST FROM THE E¼ CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	10 E	WM	7	SW NE		2.90
41 S	10 E	WM	7	SE NE		15.20
41 S	10 E	WM	7	NE SE		40.00
41 S	10 E	WM	7	NW SE		24.60
41 S	10 E	WM	7	SW SE	3	7.00
41 S	10 E	WM	7	SE SE		31.60
41 S	10 E	WM	8	SW NW		0.25
TOTAL						121.55

- Transfer Application T-11286 proposes to move the authorized point of appropriation approximately 2650 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	7	SE SE	300 FEET NORTH AND 400 FEET WEST FROM THE SE CORNER OF SECTION 7

- Notice of the application for transfer was published on September 6, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On February 14, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11286 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 15, 2012, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
- On March 20, 2012, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11286 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on March 27, 2012, and in The Herald and News newspaper on March 25, April 1 and April 8, 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)

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 pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11286.
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.

Conclusions of Law

The change in point of appropriation proposed in Transfer Application T-11286 appears to be 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 change in point of appropriation proposed in Transfer Application T-11286 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 37821 and any related decree.
3. Water right certificate 37821 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. 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.
5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2013**. 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.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 9 day of May, 2012.



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

Mailing Date MAY 17 2012