

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

In the Matter of Transfer Application            )  
T-11782, Deschutes County                    )  
  )  
  )     FINAL ORDER APPROVING A  
  )     CHANGE IN POINT OF  
  )     APPROPRIATION AND PLACE OF  
  )     USE

**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.

**Applicants**

ROBERT AND PATTI ADAIR  
959 CRATER OAK DR  
CALABASAS, CA 91302

**Findings of Fact**

1. On April 7, 2014, ROBERT AND PATTI ADAIR filed an application to change the point of appropriation and to change the place of use under Certificate 88783. The Department assigned the application number T-11782.
2. Notice of the application for transfer was published on April 15, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 11, 2014 the Department contacted the applicant's agent, Michelle Sims, regarding the deficiency in the place of use on the application and map. On June 17, 2014, the applicant's agent submitted additional information to resolve the deficiency.
4. On July 11, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11782 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of August 11, 2014, 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.

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. On August 15, 2014, the Department issued a preliminary determination proposing to approve Transfer T-11782 and mailed a copy to the applicants. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on August 19, 2014, and in the Bend Bulletin newspaper on August 17 and 24, 2014 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The portion of the right to be transferred is as follows:

**Certificate:** 88783 in the name of ERIC VETTERLEIN, DESERT SPRINGS RANCH LIMITED PARTNERSHIP (perfected under Permit G-8846)

**Use:** IRRIGATION of 4.0 ACRES

**Priority Date:** MARCH 4, 1980

**Rate:** 0.05 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 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 for each acre irrigated during the irrigation season of each year.

**Source:** A WELL within the DEEP CANYON BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
15 S	11 E	WM	19	SW SW	4	1200 FEET NORTH AND 450 FEET EAST FROM THE SW CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	11 E	WM	20	NE SW	1.6
15 S	11 E	WM	20	NW SW	1.8
15 S	11 E	WM	20	NW SE	0.6

7. Transfer Application T-11782 proposes to move the authorized point of appropriation approximately 4.7 miles in a northerly direction from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	11 E	WM	32	SE NE	274 FEET NORTH AND 191 FEET WEST THE FROM EAST 1/4 CORNER OF SECTION 32

8. Transfer Application T-11782 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	11 E	WM	32	SE NE	4.0

***Transfer Review Criteria (OAR 690-380-4010)***

9. Water has been used within the last five years prior to the submittal of Transfer Application T-11782 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.
10. 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-11782.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The change in point of appropriation and change in place of use proposed in Transfer Application T-11782 are 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 and change in place of use proposed in Transfer Application T-11782 are 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 88783 and any related decree.
3. Water right Certificate 88783 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, 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 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 the new point of appropriation.
  - b) The water user shall maintain the meter or measuring device in good working order.
  - c) The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is 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. The former place of use of the transferred right shall no longer receive water under the right.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2015**. 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 changes and full beneficial use of the water.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 29 day of September, 2014.

  
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Dwight French, Water Right Services Division Administrator, for  
Director, Oregon Water Resources Department

Mailing date: OCT 02 2014