

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING CHANGES IN
T-13865, Lake County)	POINTS OF APPROPRIATION AND PLACES
)	OF USE
)	

Authority

Oregon Revised Statutes (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. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

CHARLES D. AND CHERYL A. NOFZIGER
PO BOX 36
CHRISTMAS VALLEY, OR 97641

Findings of Fact

1. On November 22, 2021, CHARLES D. AND CHERYL A. NOFZIGER, filed an application to change the points of appropriation and place of use under Certificates 76468, 91152, 91153 and to change the place of use under Certificate 83338. The Department assigned the application number T-13865.
2. Notice of the application for transfer was published on December 7, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 11, 2022, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13865 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 10, 2022, 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 applicant is 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.

4. On March 29, 2022, the agent for the applicant requested the completion date of October 1, 2027 in order to provide enough time to complete the proposed changes. The Department granted the longer time for completion per OAR 690-380-5140 (3).
5. On June 1, 2022, the Department issued a Preliminary Determination proposing to approve Transfer Application T-13865 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on June 7, 2022, and in the Lakeview Examiner newspaper on June 15 and 22, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The portion of the first right to be transferred is as follows:

Certificate: 76468 in the name of FLOWERREE FARMS, INC. C/O JOHN FLOWERREE (perfected under Permit G-9020)
Use: IRRIGATION of 5.0 ACRES
Priority Date: JUNE 11, 1980
Rate: 0.06 CUBIC FOOT PER SECOND (CFS)
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: WELL 2 in the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	19 E	WM	8	NE SW	WELL 2 - 1320 FEET SOUTH AND 1300 FEET WEST FROM THE C1/4 CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	19 E	WM	8	NE SW	1.3
27 S	19 E	WM	8	NW SW	1.2
27 S	19 E	WM	8	SW SW	1.2
27 S	19 E	WM	8	SE SW	1.3
Total:					5.0

7. Transfer Application T-13865 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	19 E	WM	8	NE NW	1.3
27 S	19 E	WM	8	NW NW	1.2
27 S	19 E	WM	8	SW NW	1.2
27 S	19 E	WM	8	SE NW	1.3

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
				Total	5.0

8. Transfer Application T-13865 proposes to move the authorized point of appropriation approximately 2660 feet North to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	19 E	WM	8	NE NW	WELL 1 - SOUTH 44 DEGREES, 41 MINUTES, 21 SECONDS WEST 1856.71 FEET FROM THE N1/4 CORNER OF SECTION 8

9. The second right to be transferred is as follows:

Certificate: 83338 in the name of RICHARD C. SMITH (perfected under Permit G-10703)

Use: IRRIGATION of 10.3 ACRES

Priority Date: NOVEMBER 4, 1983

Rate: 0.128 CFS

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 in the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	19 E	WM	8	NE NW	WELL 1 - SOUTH 44 DEGREES, 41 MINUTES, 21 SECONDS WEST 1856.71 FEET FROM THE N1/4 CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	19 E	WM	8	NE NW	2.51
27 S	19 E	WM	8	NW NW	2.01
27 S	19 E	WM	8	SW NW	2.57
27 S	19 E	WM	8	SE NW	3.21
				Total:	10.30

10. Transfer Application T-13865 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	19 E	WM	8	NE NW	2.60
27 S	19 E	WM	8	NW NW	2.60
27 S	19 E	WM	8	SW NW	2.60
27 S	19 E	WM	8	SE NW	2.50
				Total:	10.30

11. The third right to be transferred is as follows:

Certificate: 91152 in the name of CHARLES AND CHERYL A. NOFZIGER (perfected under Permit G-9651)
Use: IRRIGATION of 121.6 ACRES
Priority Date: APRIL 5, 1982
Rate: 1.52 CFS
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 in FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	17 E	WM	19	SW NE	WELL 3 - 1322 FEET SOUTH AND 1335 FEET WEST FROM THE NE CORNER OF SECTION 19

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	17 E	WM	19	NE NE	32.7
27 S	17 E	WM	19	NW NE	23.5
27 S	17 E	WM	19	SW NE	32.7
27 S	17 E	WM	19	SE NE	32.7
Total:					121.6

12. Transfer Application T-13865 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
27 S	17 E	WM	19	NE NE	11.0	POU
27 S	17 E	WM	19	SE NE	15.1	POU
27 S	19 E	WM	8	NE NW	23.8	POA/POU
27 S	19 E	WM	8	NW NW	23.9	POA/POU
27 S	19 E	WM	8	SW NW	23.9	POA/POU
27 S	19 E	WM	8	SE NW	23.9	POA/POU
Total:					121.6	

13. Transfer Application T-13865 proposes to move the authorized point of appropriation approximately 2655 feet West to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	19 E	WM	8	NE NW	WELL 1 - SOUTH 44 DEGREES, 41 MINUTES, 21 SECONDS WEST 1856.71 FEET FROM THE N1/4 CORNER OF SECTION 8

14. The fourth right to be transferred is as follows:

Certificate: 91153 in the name of CHARLES AND CHERYL A. NOFZIGER (perfected under Permit G-8888)
Use: IRRIGATION of 9.2 ACRES
Priority Date: JULY 10, 1980
Rate: 0.115 CFS
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 in the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	17 E	WM	19	SW NE	WELL 3 - 1322 FEET SOUTH AND 1335 FEET WEST FROM THE NE CORNER OF SECTION 19

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	17 E	WM	19	NW NE	9.2

15. Transfer Application T-13865 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	19 E	WM	8	NE NW	2.3
27 S	19 E	WM	8	NW NW	2.3
27 S	19 E	WM	8	SW NW	2.3
27 S	19 E	WM	8	SE NW	2.3
Total:					9.2

16. Transfer Application T-13865 proposes to move the authorized point of appropriation approximately 2655 feet West to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	19 E	WM	8	NE NW	WELL 1 - SOUTH 44 DEGREES, 41 MINUTES, 21 SECONDS WEST 1856.71 FEET FROM THE N1/4 CORNER OF SECTION 8

Transfer Review Criteria (OAR 690-380-4010)

17. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

18. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right(s) were present within the five-year period prior to submittal of Transfer Application T-13865.
19. The proposed changes would not result in enlargement of the rights.
20. The proposed changes would not result in injury to other water rights.
21. All other application requirements are met.

Conclusions of Law

The changes in point of appropriation and changes in place of use proposed in Transfer Application T-13865 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 points of appropriation and change in places of use proposed in Transfer Application T-13865 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 Certificates 76468, 83338, 91152, 91153, and any related decree.
3. Water right Certificates 76468, 83338, 91152, and 91153 are cancelled. A new certificate will be issued describing that portion of the Certificate 76468 not affected by this transfer.
4. For Certificate 76468 the quantity of water diverted at the new point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 2).
5. For Certificate 91152, the quantity of water diverted at the new point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 3).
6. For Certificate 91153, the quantity of water diverted at the new point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 3).
7. 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 (new and existing).
 - 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.
8. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
9. The former places of use of the transferred right shall no longer receive water under the rights.
10. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2027**. 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.
11. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

SEP 20 2022

Dated in Salem, Oregon on _____



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Douglas E. Woodcock, ACTING DIRECTOR
Oregon Water Resources Department

SEP 21 2022

Mailing date: _____