BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application T-12750, Douglas County	))	FINAL ORDER APPROVING OF A CHANGE IN POINT OF DIVERSION

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

GENE G. AND ROSEMARY L. WOIDA
301 BRADY HILL LANE
AZALEA, OR 97410

Findings of Fact

1. On September 20, 2017, GENE G. AND ROSEMARY L. WOIDA filed an application to change the point of diversion under Certificate 50332. The Department assigned the application number T-12750.

2. Notice of the application for transfer was published on October 3, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

3. On March 2, 2018, the Department contacted the applicant's agent, Nathan R. Reed, CWRE, by written correspondence to notify the applicant's agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by May 4, 2018.

4. On March 12, 2018, the Department received an amended Transfer Application map and pages resolving the deficiency.

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 March 19, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12750 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 19, 2018, for the applicant to respond. The applicant 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.

6. On May 9, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12750 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 May 15, 2018, and in the News Review newspaper on May 15 and 22, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 50332 in the name of LOUIS F ANDERSON (perfected under Permit S-890)
Use: IRRIGATION of 28.0 ACRES
Priority Date: JULY 21, 1911
Rate: 0.35 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, shall be limited to ONE-SEVENTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre irrigated during the irrigation season of each year.
Source: COW CREEK, a tributary of SOUTH UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
32 S	5 W	WM	13	NE NW	915 FEET SOUTH AND 490 FEET WEST FROM THE N1/4 CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
32 S	5 W	WM	14	SW SE	28.00

8. Transfer Application T-12750 proposes to move the authorized point of diversion approximately 1.2 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
32 S	5 W	WM	14	NE SW	467 FEET SOUTH AND 446 FEET WEST FROM THE CENTER 1/4 CORNER OF SECTION 14

9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

Transfer Review Criteria [OAR 690-380-4010(2)]

10. 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.

11. A diversion structure and ditch 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-12750.

12. The proposed change would not result in enlargement of the right.

13. The proposed change would not result in injury to other water rights.

14. All other application requirements are met.

Conclusions of Law

The change in point of diversion proposed in Transfer Application T-12750 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of diversion in Transfer Application T-12750 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 50332 and any related decree.

3. Water right Certificate 50332 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 diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.

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 new point of diversion.

   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. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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 JUN 04 2018.

Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: JUN 05 2018