

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

In the Matter of Transfer Application                    ) PRELIMINARY DETERMINATION  
T-8450, Lake County                                        ) PROPOSING APPROVAL OF 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.
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

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

**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

- 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

- 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.
- 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.
- 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.
- 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.

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

11. 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.
12. 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.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

### **Determination and Proposed Action**

The additional point of appropriation proposed in application T-8450 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-8450 is approved, the final order will include the following:*

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 30 day of January, 2012.

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

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or [Patrick.K.Starnes@wrds.state.or.us](mailto:Patrick.K.Starnes@wrds.state.or.us).

*Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.*