

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-10867, Tillamook County	)	TEMPORARY CHANGE IN PLACE OF
	)	USE AND POINT OF DIVERSION

**Authority**

ORS 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion 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**

WILLIAM SLAVENS  
24155 MOON CREEK ROAD  
BEAVER, OREGON 97108-9717

**Findings of Fact**

1. On May 4, 2009, William Slavens filed an application to temporarily change the place of use and to change the point of diversion to serve the proposed place of use under Certificate 38988 for a period of 5 years. The Department assigned the application number T-10867.

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

**Certificate:** 38988 in the name of Ernest G. Harris (perfected under Permit S-27891)  
**Use:** Irrigation of 15.7 acres  
**Priority Date:** March 12, 1962  
**Rate:** 0.15 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-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** Big Nestucca River, tributary to the Pacific Ocean

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	8 W	WM	30	SW NE	1130 FEET SOUTH AND 670 FEET WEST FROM THE NE CORNER OF THE SWNE, SECTION 30

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	8 W	WM	30	SW NE	13.6
3 S	8 W	WM	30	SE NW	1.3
3 S	8 W	WM	30	NE SW	0.3
3 S	8 W	WM	30	NW SE	0.5

3. Temporary Transfer Application T-10867 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	9 W	WM	25	NE SW	1.3
3 S	9 W	WM	25	NW SE	12.9
3 S	9 W	WM	25	SW SE	1.5

4. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-10867 proposes to move the authorized point of diversion approximately 1.3 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	9 W	WM	25	SW SE	1120 FEET NORTH AND 30 FEET EAST FROM THE S¼ CORNER OF SECTION 25

5. Notice of the application for temporary transfer was published on pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

**Temporary Transfer Review Criteria**

6. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
8. The proposed changes would not result in enlargement of the right.
9. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(6) if the Department later finds that the transfer is causing injury to any existing water right.

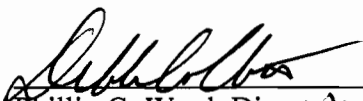
**Conclusions of Law**

The temporary changes in place of use and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-10867 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

**Now, therefore, it is ORDERED:**

1. The temporary changes in place of use and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-10867 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2009, 2010, 2011, 2012 and 2013 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2013 irrigation season. The authorization to use the additional point of diversion shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 38988 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 38988.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of diversion. If the Director notifies the water user to install totalizing flow meters or other suitable devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices..
9. The use of the remaining water right described by Certificate 38988 shall continue to be in accordance with the terms and conditions of Certificate 38988.

Dated at Salem, Oregon this 25<sup>th</sup> day of June, 2009.

  
Phillip C. Ward, Director

Mailing Date: JUN 29 2009