

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-11559, Yamhill County	)	CHANGE IN PLACE OF USE AND
	)	CHARACTER OF USE AND PARTIAL
	)	CANCELLATION AND PARTIAL
	)	DIMINUTION OF A WATER RIGHT

**Authority**

ORS 540.505 to 540.580 establishes 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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

**Applicant**

SLEGGERS FARMS, INC.  
ARIE SLEGGERS, PRESIDENT  
18345 SE NICHOLS ROAD  
DAYTON, OR 97114

**Findings of Fact**

1. On March 28, 2013, SLEGGERS FARMS, INC. ARIE SLEGGERS, filed an application to change the place of use and to change the character of use under Certificate 39103. The Department assigned the application number T-11559.
2. On March 28, 2013, SLEGGERS FARMS, INC. ARIE SLEGGERS, filed an Affidavit of Partial Diminution and an Affidavit of Partial Cancellation for Certificate 65623 with their transfer application number T-11559.
3. Notice of the application for transfer was published on April 9, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. The applicant originally listed point of diversion #3 as being within the SW1/4 NE1/4 but amended the application to list point of diversion #3 as being in the NW1/4 NE1/4. The amended description agrees with the map that was submitted with the application.

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 27, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11559 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 30, 2014, 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 June 20, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11559 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on July 1, 2014, and in the McMinnville News-Register newspaper on July 4 and 11, 2014, 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:** 39103 in the name of GRAY AND COMPANY (perfected under Permit G-3154)

**Use:** IRRIGATION of 53.8 ACRES

**Priority Date:** JANUARY 31, 1966

**Rate:** 0.67 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; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

**Source:** A WELL, tributary of WILLAMETTE RIVER

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	34	SW NW	60	WELL 1: 20 FEET SOUTH AND 1630 FEET EAST FROM THE SW CORNER OF DLC 51

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	33	SE SE	60	16.6
4 S	3 W	WM	34	NW SW	60	12.2
4 S	3 W	WM	34	SW SW	60	25.0

8. Transfer Application T-11559 proposes to change the place of use of the right to:

DAIRY BARN USES					
Twp	Rng	Mer	Sec	Q-Q	DLC
4 S	3 W	WM	34	NE SW	60

DAIRY BARN USES					
Twp	Rng	Mer	Sec	Q-Q	DLC
4 S	3 W	WM	34	NW SW	60
4 S	3 W	WM	34	SW SW	60
4 S	3 W	WM	34	SE SW	60

9. Transfer Application T-11559 proposes to change the character of use to dairy barn uses.

***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 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-11559.
12. The *Oregon Crop Water Use and Irrigation Requirements* report (Oregon State University, Extension Miscellaneous 8530) shows that the maximum quantity of water for beneficial use in the Willamette Valley area is 2.2 acre/feet per acre (apples).
13. The proposed change in character of use from irrigation to dairy use would result in enlargement of the right, unless conditioned to limit the rate of diversion under the right to 0.67 cubic foot per second and further limit the total volume of water being diverted under the right at 118.4 acre feet (53.8 acres X 2.2 acre feet/acre) during the irrigation season of March 1 to October 31.
14. The proposed changes, as conditioned, would not result in enlargement of the right.
15. The proposed changes, as conditioned, would not result in injury to other water right.

***Partial Cancellation of a Water Right***

On March 28, 2013, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from ARIE SLEGERS, SLEGERS FARMS INC. The right to be cancelled is as follows:

**Certificate:** 65623 in the name of SLEGERS FARMS INC. (perfected under Permit S-41510)  
**Use:** PRIMARY IRRIGATION OF 9.4 ACRES AND SUPPLEMENTAL IRRIGATION OF 6.0 ACRES  
**Priority Date:** APRIL 26, 1977  
**Rate:** 3.6 ACRE FEET  
**Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 2.5 acre feet (or its equivalent) for each acre irrigated during the irrigation season of each year. The right shall be limited to any

deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.

**Source:** SLEGERS SEWAGE LAGOON CONSTRUCTED UNDER PERMIT R-6572, tributary of the WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	34	NW SW	60	2450 FEET NORTH AND 1300 FEET EAST FROM THE SW CORNER OF SECTION 34

**Authorized Place of Use to be Cancelled:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	34	NE SW	60	0.5
4 S	3 W	WM	34	NW SW	60	0.5
4 S	3 W	WM	34	SE SW	60	4.2
4 S	3 W	WM	34	SW SW	60	4.2

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	34	NE SW	60	2.3
4 S	3 W	WM	34	NW SW	60	3.7

***Partial Diminution of a Water Right***

On March 28, 2013, the Department received an Affidavit for the Partial Diminution of a Water Right Certificate from ARIE SLEGERS, SLEGERS FARMS INC. The affidavit is contingent upon the approval of a transfer for Water Right 37662, Transfer T-11558. The right to be diminished is as follows:

- Certificate:** 65623 in the name of SLEGERS FARMS INC. (perfected under Permit S-41510)
- Use:** PRIMARY IRRIGATION OF 14.5 ACRES
- Priority Date:** APRIL 26, 1977
- Volume Limit:** 3.4 ACRE FEET STORED WATER ONLY
- Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 2.5 acre feet (or its equivalent) for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.
- Source:** SLEGERS SEWAGE LAGOON CONSTRUCTED UNDER PERMIT R-6572, tributary of the WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	34	NW SW	60	2450 FEET NORTH AND 1300 FEET EAST FROM THE SW CORNER OF SECTION 34

**Authorized Place of Use to be Diminished:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	34	SW SW	60	7.5
4 S	3 W	WM	34	SE SW	60	7.0

**Conclusions of Law**

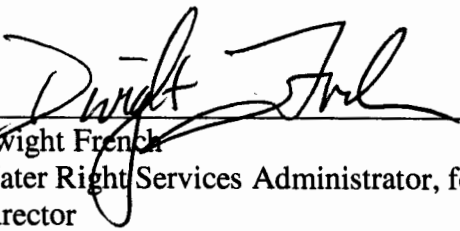
The changes in place of use and character of use proposed in Transfer Application T-11559 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000; the abandoned portion of the right should be cancelled and the voluntarily diminished portion of the right should be diminished.

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

1. The changes in place of use and character of use proposed in Transfer Application T-11559 are approved.
2. The portion of water right evidenced by Water Right Certificate 65623 that has been abandoned is cancelled. The portion of Water Right Certificate 65623 for irrigation of 14.5 acres has been diminished from primary irrigation to a right for supplemental irrigation.
3. 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 39103 and 65623 and any related decree.
4. Water Right Certificates 39103 and 65623 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer, cancellation and diminution.
5. The amount of water used for the proposed dairy use shall be limited to a rate of diversion of 0.67 cubic foot per second and shall not exceed a total volume diverted of 118.4 acre feet during the irrigation season, March 1 to October 31, of each year.
6. 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 diversion.
  - 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.
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, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 20 day of August, 2014.

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

Mailing Date: SEP 04 2014