# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER
T-9860, Yamhill County	)	APPROVING A CHANGE IN POINT OF
-	)	DIVERSION

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.

## Applicant

T-9860.pks

ARIE AND PATRICIA SLEGERS 18345 SE NICHOLS ROAD DAYTON, OREGON 97114

# **Findings of Fact**

- 1. On February 11, 2005, Arie and Patricia Slegers filed a transfer application to change the point of diversion under Certificate 31320. The Department assigned the application number T-9860.
- 2. The right to be transferred is as follows:

Certificate: 31320 in the name of ED RICHARDS (perfected under Permit S-27589)

Use: IRRIGATION of 50.0 ACRES
Priority Date: OCTOBER 6, 1961
Rate: 0.63 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 2.5 acre feet per acre for

each acre irrigated during the irrigation season of each year

Source: LAMBERT SLOUGH, tributary to the WILLAMETTE RIVER

#### **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC
5 S	3 W	WM	3	SE NW	52

#### NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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 either 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 Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	33	NE SE	60	10.5
4 S	3 W	WM	33	NW SE	60	7.2
4 S	3 W	WM	33	SW SE	60	13.4
4 S	3 W	WM	33	SE SE	60	18.9

3. Application T-9860 proposes to move the authorized point of diversion approximately 1400 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
5 S	3 W	WM	3	SW NE	52	940 FEET NORTH AND 2100 FEET WEST FROM THE EASTERLY SE CORNER OF DLC 52. (GPS COORDINATES – 45°10.060'N AND 123°02.333'W)

- 4. As initially submitted, the transfer application did not adequately describe the proposed point of diversion.
- 5. On July 12, 2006, the applicants submitted additional information adequately describing the proposed point of diversion.
- 6. On March 15, 2005, notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice. However, the Oregon Department of Fish and Wildlife did request inclusion of a condition requiring installation of proper fish screens.
- 7. On August 2, 2006, the Department issued a preliminary determination proposing to approve Transfer T-9860 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 August 8, 2006, and in the News-Register on August 17, 24, and 31, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
- 8. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- 10. The proposed change would not result in enlargement of the right.
- 11. The proposed change would not result in injury to other water rights.

#### Conclusion of Law

The change in point of diversion proposed in application T-9860 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 proposed in application T-9860 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 31320 and any related decree.
- 3. Water Right Certificate 31320 is cancelled.
- 4. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008.** 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.
- 5. The quantity of water diverted at the proposed point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
- 6. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and 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 water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.
- 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 13th day of October 2006.

Phillip C. Ward, Director

Mailing Date: 0CT 1 6 2006