

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-10150, Marion County)	ADDITIONAL POINTS 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

DAVID AND MARGUERITE OBERSINNER
7886 NORTH HOWELL ROAD NE
SILVERTON, OREGON 97381

Findings of Fact

1. On April 21, 2006, David and Marguerite Obersinner filed an application for additional points of appropriation under Certificates 40105, 72420, and 81959. The Department assigned the application number T-10150.

2. The first right to be transferred is as follows:

Certificate: 40105 in the name of HAROLD R. DUNN (perfected under Permit G-4076)

Use: IRRIGATION of 33.9 ACRES

Priority Date: APRIL 8, 1968

Rate: 0.38 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: A WELL in the PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	2 W	WM	13	SE SE	200 FEET NORTH AND 630 FEET WEST FROM THE SE CORNER OF SECTION 13

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	GLot	Acres
6 S	2 W	WM	13	NE SE		0.4
6 S	2 W	WM	13	SE SE		19.1
6 S	2 W	WM	24	NE NE	1	14.4

3. Application T-10150 proposes an additional point of appropriation approximately 300 feet West from the existing point of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	2 W	WM	13	SE SE	WEST WELL - 150 FEET NORTH AND 960 FEET WEST FROM THE SE CORNER OF SECTION 13.

4. The second right to be transferred is as follows:

Certificate: 72420 in the name of HAROLD R. DUNN (perfected under Permit G-11478)

Use: IRRIGATION of 45.0 ACRES

Priority Date: JUNE 28, 1991

Rate: 0.56 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: A WELL in the LITTLE PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	2 W	WM	13	SE SE	150 FEET NORTH AND 960 FEET WEST FROM THE SE CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	2 W	WM	13	SW SE		18.6
6 S	2 W	WM	13	SE SE		13.4
6 S	2 W	WM	24	NE NE	1	1.6
6 S	2 W	WM	24	NW NE	2	11.4

5. Application T-10150 proposes an additional point of appropriation approximately 300 feet East from the existing point of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	2 W	WM	13	SE SE	EAST WELL - 200 FEET NORTH AND 630 FEET WEST FROM THE SE CORNER OF SECTION 13

6. The third right to be transferred is as follows:

Certificate: 81959 in the names of DAVID AND MARGUERITE OBERSINNER
(perfected under Permit G-15200)

Use: IRRIGATION of 12.6 ACRES

Priority Date: DECEMBER 4, 2001

Rate: 0.158 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: A WELL in the LITTLE PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	2 W	WM	13	SE SE	150 FEET NORTH AND 960 FEET WEST FROM THE SE CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	2 W	WM	13	SW SE		11.2
6 S	2 W	WM	13	SE SE		0.2
6 S	2 W	WM	24	NW NE	2	1.2

7. Application T-10150 proposes an additional point of appropriation approximately 300 feet East from the existing point of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	2 W	WM	13	SE SE	EAST WELL - 200 FEET NORTH AND 630 FEET WEST FROM THE SE CORNER OF SECTION 13

8. Notice of the application for transfer was published on May 9, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
9. On November 21, 2006, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10150 to the applicants. The draft Preliminary Determination set forth a deadline of December 17, 2006, for the applicants to respond. The applicants did not provide any comments and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
10. On September 19, 2007, the Department issued a Preliminary Determination proposing to approve Transfer T-10150 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on September 25, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
11. 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.

12. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
13. The proposed change would not result in enlargement of the rights.
14. The proposed changes would not result in injury to other water rights.

Conclusions of Law


The additional points of appropriation proposed in application T-10150 are consistent with the requirements of ORS 537.705, 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

Now, therefore, it is ORDERED:

1. The additional points of appropriation proposed in T-10150 are approved.
2. Certificates 40105, 72420, and 81959, are cancelled.
3. The right to 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 40105, 72420, and 81959, and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
5. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2009**. 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.
7. Prior to diverting water at the new points of appropriation, the water user shall install and maintain in-line flow meters or other suitable devices for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

8. When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 8 day of November 2007.


for Phillip C. Ward, Director

Mailing Date: NOV 13 2007