

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

In the Matter of Transfer Application	)	SUPERSEDING FINAL ORDER
T-9662, Polk County	)	APPROVING A CHANGE IN POINT OF
	)	DIVERSION AND CORRECTING A
	)	SCRIVENER'S ERROR IN A
	)	PREVIOUS ORDER

**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.

**Applicant**

THE OLSEN FARMS FAMILY LIMITED PARTNERSHIP  
HIRAM G. OLSEN REVOCABLE LIVING TRUST  
8930 SUVER RD  
MONMOUTH, OR 97361

**Findings of Fact**

**Background**

1. On March 5, 2004, THE OLSEN FARMS FAMILY LIMITED PARTNERSHIP/HIRAM G. OLSEN REVOCABLE LIVING TRUST filed an application to change the point of diversion under Permit S-52679. The Department assigned the application number T-9662.
2. On April 20, 2004, the Department issued Certificate 80695, confirming Permit S-52679.
3. On August 10, 2004, the Department issued Special Order Volume 61, Page 79, approving Transfer T-9681, which cancelled Certificate 80695 and resulted in Certificates 80897 and 83673.
4. Certificate 80897 was superseded by Certificate 80963, which was superseded by Certificate 81322.

**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.

5. The portion of the first right to be transferred is as follows:

**Certificate:** 81322 in the name of HIRAM G. OLSEN (perfected under Permit S-52679)  
**Use:** SUPPLEMENTAL IRRIGATION OF 196.3 ACRES  
**Priority Date:** AUGUST 19, 1993  
**Rate:** 119.01 ACRE-FEET PER YEAR FROM WILLAMETTE BASIN PROJECT RESERVOIRS  
**Period of Use:** March 1 through October 31 for stored water or as may be further limited by the Bureau of Reclamation water supply contract  
**Source:** WILLAMETTE BASIN PROJECT RESERVOIRS, tributary to the WILLAMETTE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	4 W	WM	23	SE SW	WILLAMETTE RIVER DIVERSION: 450 FEET NORTH AND 1520 FEET EAST FROM THE SW CORNER OF SECTION 23

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	26	NW NW	10.4
9 S	4 W	WM	26	SW NW	12.2
9 S	4 W	WM	27	NE NE	29.2
9 S	4 W	WM	27	NW NE	17.0
9 S	4 W	WM	27	SW NE	26.4
9 S	4 W	WM	27	SE NE	20.0
9 S	4 W	WM	27	SE NW	13.1
9 S	4 W	WM	27	NE SW	23.5
9 S	4 W	WM	27	SE SW	24.0
9 S	4 W	WM	27	NW SE	4.1
9 S	4 W	WM	27	SW SE	16.4

6. The portion of the second right to be transferred is as follows:

**Certificate:** 83673 in the name of HIRAM G. OLSEN (perfected under Permit S-52679)  
**Use:** SUPPLEMENTAL IRRIGATION OF 548.7 ACRES  
**Priority Date:** AUGUST 19, 1993  
**Rate:** 332.64 ACRE FEET FROM THE WILLAMETTE BASIN PROJECT RESERVOIRS  
**Period of Use:** March 1 through October 31 for stored water or as may be further limited by the Bureau of Reclamation Water Supply Contract  
**Source:** WILLAMETTE BASIN PROJECT RESERVOIRS, tributary to the WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	4 W	WM	23	SE SW	WILLAMETTE RIVER DIVERSION: 450 FEET NORTH AND 1520 FEET EAST FROM THE SW CORNER OF SECTION 23

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	15	SW NW	19.2
9 S	4 W	WM	15	SE NW	3.0
9 S	4 W	WM	15	NE SW	18.0
9 S	4 W	WM	15	NW SW	39.0
9 S	4 W	WM	15	SW SW	38.4
9 S	4 W	WM	15	SE SW	18.6
9 S	4 W	WM	16	SE NE	15.1
9 S	4 W	WM	16	NE SE	30.8
9 S	4 W	WM	16	SE SE	36.7
9 S	4 W	WM	21	NE NE	33.6
9 S	4 W	WM	21	SE NE	27.5
9 S	4 W	WM	22	NE NE	12.1
9 S	4 W	WM	22	NW NE	13.2
9 S	4 W	WM	22	SW NE	40.0
9 S	4 W	WM	22	SE NE	21.0
9 S	4 W	WM	22	NE NW	25.0
9 S	4 W	WM	22	NW NW	38.4
9 S	4 W	WM	22	SW NW	28.4
9 S	4 W	WM	22	SE NW	33.5
9 S	4 W	WM	22	NE SW	16.2
9 S	4 W	WM	22	NE SE	10.6
9 S	4 W	WM	22	NW SE	30.4

7. Transfer Application T-9662 proposes to move the authorized point of diversion for Certificates 81322 and 83673 approximately 2165 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	4 W	WM	26	SW NW	1650 FEET SOUTH AND 1000 FEET EAST FROM THE SW CORNER OF SECTION 23

8. Notice of the application for transfer was published on March 30, 2004, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On September 9, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-9662 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 11, 2010, 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.

10. On October 22, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-9662 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Departments weekly notice on October 26, 2010, and in the Polk County Itemizer-Observer on December 15, 22, and 29, 2010. No protests were filed in response to the notices.
11. On January 31, 2011, the Department issued a Final Order for the transfer, recorded at Special Order Volume 83, Pages 468-472. Following issuance of the order, the Department recognized a scrivener's error in the quarter-quarter description of the proposed point of diversion.
12. This order is issued to correct the scrivener's error and to supersede the previous order recorded at Special Order Volume 83, Pages 468-472.
13. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

14. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-9662.
16. The proposed change would not result in enlargement of the rights.
17. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The change in point of diversion proposed in Transfer Application T-9662 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

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

1. The order entered at Special Order Volume 83, Pages 468-472 is withdrawn and of no further force and effect, and is superseded by this order.
2. The change in point of diversion proposed in Transfer Application T-9662 is approved.

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 81322 and 83673 and any related decree.
4. Water right certificates 81322 and 83673 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer
5. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
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 devices in good working order.
  - c. The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
8. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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 change and full beneficial use of the water.
9. When satisfactory proof of the completed change is received, a new certificate confirming the rights transferred will be issued.

Dated at Salem, Oregon this 9th day of August 2011.

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

Mailing date:           AUG 11 2011