

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-9681, Polk County, Oregon) TRANSFER

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
c/o Jamie Olsen
8930 Suver Road
Monmouth, OR 97631

Findings of Fact

1. The Olsen Farms Family Limited Partnership filed an application to add a point of diversion under Certificate 80695. The Department assigned the application number T-9681.
2. The portion of the right to be transferred is as follows:

Certificate: 80695 in the name of Hiram G. Olsen
Use: Primary irrigation
Priority Date: August 19, 1993
Quantity: 5.39 cfs
Acres: 548.7
Source: Luckiamute River, tributary to Willamette River, for primary irrigation
Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
9	S	4	W	W.M.	27	SE SW			Luckiamute River diversion – 20 feet north and 700 feet west from the S ¼ corner Section 27

This is a final order in other than 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
9	S	4	W	W.M.	15	SW NW			19.2
9	S	4	W	W.M.	15	SE NW			3.0
9	S	4	W	W.M.	15	NE SW			18.0
9	S	4	W	W.M.	15	NW SW			39.0
9	S	4	W	W.M.	15	SW SW			38.4
9	S	4	W	W.M.	15	SE SW			18.6
9	S	4	W	W.M.	16	SE NE			15.1
9	S	4	W	W.M.	16	NE SE			30.8
9	S	4	W	W.M.	16	SE SE			36.7
9	S	4	W	W.M.	21	NE NE			33.6
9	S	4	W	W.M.	21	SE NE			27.5
9	S	4	W	W.M.	22	NE NE			12.1
9	S	4	W	W.M.	22	NW NE			13.2
9	S	4	W	W.M.	22	SW NE			40.0
9	S	4	W	W.M.	22	SE NE			21.0
9	S	4	W	W.M.	22	NE NW			25.0
9	S	4	W	W.M.	22	NW NW			38.4
9	S	4	W	W.M.	22	SW NW			28.4
9	S	4	W	W.M.	22	SE NW			33.5
9	S	4	W	W.M.	22	NE SW			16.2
9	S	4	W	W.M.	22	NE SE			10.6
9	S	4	W	W.M.	22	NW SE			30.4

3. Application T-9681 proposes to add a point of diversion approximately 1.6 miles upstream from the current point of diversion on the Luckiamute River. The location of the additional point of diversion:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
9	S	4	W	W.M.	28	NW SE			Luckiamute River additional point of diversion – 1600 feet north and 1925 west of the SE corner of Section 28

4. 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.

5. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.
9. Departmental review revealed that Finding of Fact #2 in the Preliminary Determination contained errors in the description of the portion of the water right being transferred, namely the use, quantity and source, since the portion of the right for supplemental irrigation from stored water is not involved in the transfer. Finding of Fact #2 in this Final Order correctly lists the portion of the water right affected by the transfer, being live flow from the Luckiamute River for primary irrigation of the listed acreage.

Conclusions of Law

The proposed addition of a point of diversion proposed in application T-9681 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

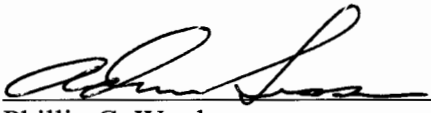
Now, therefore, it is ORDERED:

1. The addition of a point of diversion proposed in application T-9681 is approved.
2. Water right certificate 80695 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
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 Certificate 80695 and any related decree.
4. The proposed changes shall be completed on or before October 1, 2005.
5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2006.
6. The quantity of water diverted at the additional point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion on the Luckiamute River.
7. Prior to diverting water, 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.

8. The water user shall install and maintain a fish screen or fish by-pass device. 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. The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.
9. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 10th day of August, 2004.

for 
Phillip C. Ward
Acting Director

Mailing date: AUG 13 2004